



SENATE JOURNAL

STATE OF ILLINOIS

NINETY-THIRD GENERAL ASSEMBLY

66TH LEGISLATIVE DAY

THURSDAY, NOVEMBER 20, 2003

11:20 O'CLOCK A.M.

SENATE
Daily Journal Index
66th Legislative Day

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The Senate met pursuant to adjournment.

Senator Hendon, presiding.

Prayer by Reverend T. Ray McJunkins Union Baptist Church, Springfield, Illinois.

Senator Link led the Senate in the Pledge of Allegiance.

Senator Halvorson moved that reading and approval of the Journal of Wednesday, November 19, 2003 be postponed pending arrival of the printed Journal.

The motion prevailed.

JOINT ACTION MOTIONS FILED

The following Joint Action Motions to the Senate Bills listed below have been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 771

Motion to Concur in House Amendment 1 to Senate Bill 865

Motion to Concur in House Amendment 2 to Senate Bill 1559

Motion to Concur in House Amendments 1 and 2 to Senate Bill 1668

READING BILL FROM THE HOUSE OF REPRESENTATIVES A FIRST TIME

On motion of Senator Shadid - Demuzio, **House Bill No. 3835** was taken up, read by title a first time and referred to the Committee on Rules.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 324

Offered by Senator Lauzen and all Senators:

Mourns the death of Richard J. "Dick" Michelini of Montgomery.

SENATE RESOLUTION 325

Offered by Senator Lauzen and all Senators:

Mourns the death of Josephine E. Birkett of Burr Ridge.

SENATE RESOLUTION 326

Offered by Senator Lauzen and all Senators:

Mourns the death of Albert Wykes of Plano.

SENATE RESOLUTION 327

Offered by Senator Lauzen and all Senators:

Mourns the death of Prentiss Thompson of Aurora.

SENATE RESOLUTION 328

Offered by Senator Lauzen and all Senators:

Mourns the death of Randy Block.

SENATE RESOLUTION 329

Offered by Senator Lauzen and all Senators:

Mourns the death of Marian Elizabeth Stumm Stuck of Appleton, Wisconsin.

SENATE RESOLUTION 330

Offered by Senator Lauzen and all Senators:

Mourns the death of Robert I. Stuart of Aurora.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

[November 20, 2003]

REPORT FROM RULES COMMITTEE

Senator Demuzio, Chairperson of the Committee on Rules, during its November 20, 2003 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Agriculture and Conservation: **Motion to Concur in House Amendment 2 to Senate Bill 1559**

Executive: **Motion to Recede from Senate Amendment 2 to House Bill 741;L Motion to Concur in House Amendments 1 and 2 to Senate Bill 1668**

Financial Institutions: **Motion to Concur in House Amendment 1 to Senate Bill 771**

State Government: **Motion to Concur in House Amendment 1 to Senate Bill 867**

Senator Demuzio, Chairperson of the Committee on Rules, during its November 20, 2003 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committees of the Senate:

Labor and Commerce: **Senate Floor Amendment No. 1 to House Bill 810.**

Revenue: **Senate Floor Amendment No. 2 to House Bill 863.**

Senator Demuzio, Chairperson of the Committee on Rules, to which was referred **House Bills Numbered 621, 2654, 2655, 2656, 2657, 2659 and 2745** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee recommends that the bills be approved for consideration and returned to the calendar in their former position.

The report of the Committee was concurred in.

And **House Bills Numbered 621, 2654, 2655, 2656, 2657, 2659 and 2745** were returned to the order of third reading.

Senator Demuzio, Chairperson of the Committee on Rules, reported that the following Legislative Measure has been approved for consideration:

Senate Floor Amendment No. 2 to House Bill 585

The foregoing floor amendment was placed on the Secretary's Desk.

COMMITTEE MEETING ANNOUNCEMENTS

Senator Hunter, Member of the Committee on State Government announced that the State Government Committee will meet today in Room A-1 Stratton Building, at 4:00 o'clock p.m.

Senator Jacobs, Chairperson of the Committee on Insurance and Pensions announced that the Insurance and Pensions Committee will meet today in Room 212 Capitol Building, at 4:00 o'clock p.m.

Senator Halvorson, Vice-Chairperson of the Committee on Executive announced that the Executive Committee will meet today in Room 212 Capitol Building, at 1:30 o'clock p.m.

Senator Viverito, Vice-Chairperson of the Committee on Financial Institutions announced that the Financial Institutions Committee will meet today in Room 212 Capitol Building, at 3:30 o'clock p.m.

Senator Walsh, Chairperson of the Committee on Agriculture and Conservation announced that the Agriculture and Conservation Committee will meet today in Room A-1 Stratton Building, at 1:00 o'clock p.m.

Senator Link, Chairperson of the Committee on Revenue announced that the Revenue Committee will meet today in Room A-1 Stratton Building, at 1:30 o'clock p.m.

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Senator Ronen, Chairperson of the Committee on Labor and Commerce announced that the Labor and Commerce Committee will meet today in Room 212 Capitol Building, at 3:00 o'clock p.m.

CONSIDERATION OF HOUSE BILL ON CONSIDERATION POSTPONED

On motion of Senator Shadid, **House Bill No. 852** having been read by title a third time on November 19, 2003, and pending roll call further consideration postponed, was taken up again on third reading.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 55; Nays None.

The following voted in the affirmative:

Althoff	Garrett	Maloney	Sieben
Bomke	Geo-Karis	Meeks	Silverstein
Brady	Haine	Obama	Soden
Burzynski	Halvorson	Peterson	Sullivan, D.
Clayborne	Harmon	Petka	Sullivan, J.
Collins	Hendon	Radogno	Syverson
Cronin	Hunter	Rauschenberger	Trotter
Crotty	Jacobs	Righter	Viverito
Cullerton	Jones, J.	Risinger	Walsh
del Valle	Jones, W.	Ronen	Watson
DeLeo	Lauzen	Roskam	Winkel
Demuzio	Lightford	Rutherford	Wojcik
Dillard	Link	Schoenberg	Mr. President
Forby	Luechtefeld	Shadid	

This bill, having received the vote of a constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

CONSIDERATION OF MOTION IN WRITING

Pursuant to Motion in Writing filed on November 19, 2003, Senator Watson moved to reconsider the vote by which the motion that the item on page 235, line 28 of House Bill 2700 be restored, notwithstanding the item reduction of the Governor was passed.

The motion prevailed.

CONSIDERATION OF GOVERNOR'S VETO MESSAGE

Pursuant to the Motion in Writing filed and journalized on Monday, January 19, 2004, Senator Welch moved that the item on page 235, line 28 to **House Bill No. 2700** be restored, the item reduction of the Governor to the contrary notwithstanding.

And on that motion, a call of the roll was had resulting as follows:

Yeas 37; Nays 18.

The following voted in the affirmative:

Althoff	Forby	Link	Sullivan, J.
Bomke	Garrett	Maloney	Trotter
Clayborne	Geo-Karis	Meeks	Viverito

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Collins	Haine	Obama	Walsh
Cronin	Halvorson	Ronen	Welch
Crotty	Harmon	Rutherford	Wojcik
Cullerton	Hendon	Schoenberg	Mr. President
del Valle	Hunter	Shadid	
DeLeo	Jacobs	Silverstein	
Demuzio	Lightford	Sullivan, D.	

The following voted in the negative:

Brady	Luechtefeld	Righter	Syverson
Burzynski	Peterson	Risinger	Watson
Jones, J.	Petka	Roskam	Winkel
Jones, W.	Radogno	Sieben	
Lauzen	Rauschenberger	Soden	

The motion prevailed.

And the Senate concurred with the House in the restoration of the item reduction of the Governor to House Bill No. 2700.

Ordered that the Secretary inform the House of Representatives thereof.

At the hour of 12:07 o'clock p.m., Senator Welch presiding.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to House Bill 621
Senate Floor Amendment No. 2 to House Bill 3413

REPORT FROM STANDING COMMITTEE

Senator Hendon and Senator Geo-Karis, Co-Chairperson of the Committee on Executive Appointments, moved that the Senate resolve itself into Executive Session to consider the report of that Committee relative to the Governor's appointments.

The motion prevailed.

EXECUTIVE SESSION

Senators Hendon and Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of October 23, 2003, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

CENTRAL MANAGEMENT SERVICES, DEPARTMENT OF

To be Assistant Director of Central Management Services for a term commencing October 13, 2003 and ending January 17, 2005:

Paul Joseph Campbell of Arlington Heights
Salaried

CIVIL SERVICE COMMISSION

To be a Member of the Civil Service Commission for a term commencing October 6, 2003 and ending March 1, 2009:

Betty Bukraba of Chicago
Salaried

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CRIMINAL JUSTICE INFORMATION AUTHORITY

To be Executive Director of the Criminal Justice Information Authority for a term commencing August 4, 2003:

Lori G. Levin of Chicago
Salaried

EMPLOYMENT SECURITY REVIEW BOARD, DEPARTMENT OF

To be a Member of the Department of Employment Security Review Board for a term commencing August 26, 2003 and ending January 17, 2005:

Lori Quartaro Chaib of LaGrange Park
Salaried

FINANCIAL INSTITUTIONS, DEPARTMENT OF

To be Assistant Director of the Department of Financial Institutions for a term commencing August 25, 2003 and ending January 17, 2005:

Edgar I. Lopez of Chicago
Salaried

To be the Director of the Department of Financial Institutions for a term commencing August 25, 2003 and ending January 17, 2005:

Roxanne Nava of Chicago
Salaried

HUMAN RIGHTS COMMISSION

To be a Member of the Human Rights Commission for a term commencing August 5, 2003 and ending January 15, 2007:

Mary Jeanne "Dolly" Hallstrom of Evanston
Salaried

INDUSTRIAL COMMISSION, ILLINOIS

To be a Member of the Illinois Industrial Commission for a term commencing September 8, 2003 and ending January 17, 2005:

David R. Akemann of Elgin
Salaried

To be a Member of the Illinois Industrial Commission for a term commencing September 8, 2003 and ending January 15, 2007:

Jacqueline A. Kinnaman of Chicago

Salaried

To be a Member of the Illinois Industrial Commission for a term commencing September 8, 2003 and ending January 17, 2005:

Barbara A. Sherman of Chicago

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Salaried

LABOR, DEPARTMENT OF

To be Assistant Director of the Department of Labor for a term commencing October 6, 2003 and ending January 17, 2005:

Esther R. Lopez of Chicago
Salaried

PROFESSIONAL REGULATION, DEPARTMENT OF

To be the Director of the Department of Professional Regulation for a term commencing July 28, 2003 and ending January 17, 2005:

Fernando E. Grillo of Chicago
Salaried

PROPERTY TAX APPEAL BOARD

To be a Member of the Property Tax Appeal Board for a term commencing September 22, 2003 and ending January 20, 2009:

Michael J. (Mickey) Goral of Rockford
Salaried

PUBLIC HEALTH, DEPARTMENT OF

To be Assistant Director of the Department of Public Health for a term commencing August 21, 2003 and ending January 17, 2005:

Jonathan C. Dopkeen of Chicago
Salaried

VETERANS' AFFAIRS, DEPARTMENT OF

To be Assistant Director of Department of Veterans' Affairs for a term commencing August 1, 2003 and ending January 17, 2005:

Rochelle Crump of Chicago
Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Silverstein
Bomke	Haine	Obama	Soden
Brady	Halvorson	Peterson	Sullivan, D.
Burzynski	Harmon	Petka	Sullivan, J.
Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Rauschenberger	Trotter
Cronin	Jacobs	Righter	Viverito
Crotty	Jones, J.	Risinger	Walsh
Cullerton	Jones, W.	Ronen	Watson

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del Valle	Lauzen	Roskam	Welch
DeLeo	Lightford	Rutherford	Winkel
Demuzio	Link	Sandoval	Wojcik
Dillard	Luechtefeld	Schoenberg	Mr. President
Forby	Maloney	Shadid	
Garrett	Meeks	Sieben	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senators Hendon and Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of November 6, 2003, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

CORRECTIONS, DEPARTMENT OF

To be Assistant Director of the Department of Corrections; Adult Division for a term commencing November 1, 2003 and ending January 17, 2005:

Deanne Benos of Chicago
Salaried

LABOR RELATIONS BOARD; STATE PANEL, ILLINOIS

To be a member and Chair of the Illinois Labor Relations Board; State Panel for a term commencing November 1, 2003 and ending January 22, 2007:

Jackie Gallagher of Arlington Heights
Salaried

To be a member of the Illinois Labor Relations Board; State Panel for a term commencing November 1, 2003 and ending January 23, 2006:

Michael J. Hade of Springfield
Salaried

To be a member of the Illinois Labor Relations Board; State Panel for a term commencing November 1, 2003 and ending January 26, 2004:

Rex Piper of Energy
Salaried

To be a member of the Illinois Labor Relations Board; State Panel for a term commencing November 1, 2003 and ending January 23, 2006:

Letitia A. Taylor of Chicago
Salaried

POLLUTION CONTROL BOARD

To be a member of the Pollution Control Board for a term commencing December 1, 2003 and ending July 1, 2005:

G. Tanner Girard of Jacksonville
Salaried

To be a member of the Pollution Control Board for a term commencing December 1, 2003 and ending July 1, 2006:

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Thomas E. Johnson of Urbana
Salaried

To be a member of the Pollution Control Board for a term commencing December 1, 2003 and ending July 1, 2005:

Nicholas J. Melas of Chicago
Salaried

To be a member of the Pollution Control Board for a term commencing December 1, 2003 and ending July 1, 2004:

Andrea S. Moore of Libertyville
Salaried

To be a member and Chair of the Pollution Control Board for a term commencing December 1, 2003 and ending July 1, 2006:

John Philip Novak of Bradley
Salaried

PUBLIC AID, DEPARTMENT OF

To be Assistant Director of the Department of Public Aid for a term commencing November 1, 2003 and ending January 17, 2005:

Michelle D. Jordan of Chicago
Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Silverstein
Bomke	Haine	Obama	Soden
Brady	Halvorson	Peterson	Sullivan, D.
Burzynski	Harmon	Petka	Sullivan, J.
Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Rauschenberger	Trotter
Cronin	Jacobs	Righter	Viverito
Crotty	Jones, J.	Risinger	Walsh
Cullerton	Jones, W.	Ronen	Watson
del Valle	Lauzen	Roskam	Welch
DeLeo	Lightford	Rutherford	Winkel
Demuzio	Link	Sandoval	Wojcik
Dillard	Luechtefeld	Schoenberg	Mr. President
Forby	Maloney	Shadid	
Garrett	Meeks	Sieben	

The motion prevailed.

Whereupon the President of the Senate announced confirmation of the foregoing appointments.

Senators Hendon and Geo-Karis, Co-Chairpersons of the Committee on Executive Appointments, to which was referred the Governor's Message to the Senate of October 23, 2003, reported the same back with the recommendation that the Senate advise and consent to the following appointments:

[November 20, 2003]

CAPITAL DEVELOPMENT BOARD

To be a Member of the Capital Development Board for a term commencing August 13, 2003 and ending January 19, 2004:

Ray Mota of Chicago
Non-Salaried

COMMUNITY COLLEGE BOARD

To be a Member of the Community College Board for a term commencing September 1, 2003 and ending June 30, 2009:

Rudolph J. Papa of Bethalto
Non-Salaried

COMPREHENSIVE HEALTH INSURANCE PLAN

To be a Member of the Comprehensive Health Insurance Plan for a term commencing August 25, 2003 and ending July 1, 2006:

George A. Ryniak of Palos Heights
Non-Salaried

EMPLOYMENT SECURITY ADVISORY BOARD, DEPARTMENT OF

To be a Member of the Department of Employment Security Advisory Board for a term commencing October 13, 2003 and ending January 17, 2005:

David F. Vite of Woodstock
Non-Salaried

GUARDIANSHIP AND ADVOCACY COMMISSION

To be a Member of the Guardianship and Advocacy Commission for a term commencing September 3, 2003 and ending June 30, 2006:

Senator Ira I. Silverstein of Chicago
Non-Salaried

ILLINOIS STATE UNIVERSITY, BOARD OF TRUSTEES

To be a Member of the Illinois State University Board of Trustees for a term commencing September 29, 2003 and ending January 17, 2005:

J.D. Bergman of Joliet
Non-Salaried

METROPOLITAN PIER AND EXPOSITION AUTHORITY

To be a Member of the Metropolitan and Exposition Authority for a term commencing September 8, 2003 and ending June 1, 2008:

Peter O'Brien, Sr. of Chicago
Non-Salaried

To be a Member of the Metropolitan and Exposition Authority for a term commencing August 4, 2003 and ending June 1, 2005:

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Sam Toia of Chicago
Non-Salaried

NORTHEASTERN ILLINOIS UNIVERSITY, BOARD OF TRUSTEES

To be a Member of the Northeastern Illinois University Board of Trustees for a term commencing August 4, 2003 and ending January 17, 2005:

Margaret Laurino of Chicago
Non-Salaried

To be a Member of the Northeastern Illinois University Board of Trustees for a term commencing August 25, 2003 and ending January 19, 2009:

Arnold H. Park of Chicago
Non-Salaried

PUBLIC ADMINISTRATOR OF COOK COUNTY

To be the Public Administrator of Cook County for a term commencing September 8, 2003 and ending December 5, 2005:

Michael Ian Bender of Skokie
Non-Salaried

PUBLIC GUARDIAN and PUBLIC ADMINISTRATOR OF JERSEY COUNTY

To be the Public Guardian and Public Administrator of Jersey County for a term commencing July 24, 2003 and ending December 5, 2005:

David Doc Collins of Jerseyville
Non-Salaried

Senator Hendon moved that the Senate advise and consent to the foregoing appointments.
And on that motion, a call of the roll was had resulting as follows:

Yeas 58; Nays None.

The following voted in the affirmative:

Althoff	Geo-Karis	Munoz	Silverstein
Bomke	Haine	Obama	Soden
Brady	Halvorson	Peterson	Sullivan, D.
Burzynski	Harmon	Petka	Sullivan, J.
Clayborne	Hendon	Radogno	Syverson
Collins	Hunter	Rauschenberger	Trotter
Cronin	Jacobs	Righter	Viverito
Crotty	Jones, J.	Risinger	Walsh
Cullerton	Jones, W.	Ronen	Watson
del Valle	Lauzen	Roskam	Welch
DeLeo	Lightford	Rutherford	Winkel
Demuzio	Link	Sandoval	Wojcik
Dillard	Luechtefeld	Schoenberg	Mr. President
Forby	Maloney	Shadid	
Garrett	Meeks	Sieben	

The motion prevailed.
Whereupon the President of the Senate announced confirmation of the foregoing appointments.

[November 20, 2003]

On motion of Senator Hendon, the Executive Session arose and the Senate resumed consideration of business.

Senator Hendon, presiding.

At the hour of 12:25 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 4:50 o'clock p.m., the Senate resumed consideration of business.

Senator Welch, presiding.

Senator Sieben asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 4:52 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 5:45 o'clock p.m., the Senate resumed consideration of business.

Senator DeLeo, presiding.

REPORTS FROM STANDING COMMITTEE

Senator Walsh, Chairperson of the Committee on Agriculture and Conservation, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it be approved for consideration:

Motion to Concur in House Amendment 2 to Senate Bill 1559

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senator Jacobs, Chairperson of the Committee on Insurance and Pensions, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it be adopted:

Motion to Concur in House Amendment 1 to Senate Bill 1704

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senator Ronen, Chairperson of the Committee on Labor and Commerce to which was referred the following Senate floor amendment reported that the Committee recommends that it be adopted:

Senate Floor Amendment No. 1 to House Bill 810

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 713; Motion to Concur in House Amendment 1 to Senate Bill 978; Motion to Concur in House Amendment 1 to Senate Bill 1656

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motion to recede from Senate Amendment to the following House Bill, reported that the Committee recommends that it approved for consideration:

Motion to Recede from Senate Amendment 2 to House Bill 741

Under the rules, the foregoing motion is eligible for consideration by the Senate.

Senator Silverstein, Chairperson of the Committee on Executive to which was referred the following Senate floor amendments reported that the Committee recommends that they be adopted:

Senate Amendment No. 1 to House Bill 585
Senate Amendment No. 1 to House Bill 906

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Link, Chairperson of the Committee on Revenue to which was referred the following Senate floor amendment reported that the Committee recommends that it be adopted:

Senate Amendment No. 2 to House Bill 863

Under the rules, the foregoing floor amendment is eligible for consideration on second reading.

Senator Schoenberg, Chairperson of the Committee on State Government, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 867

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

Senator Lightford, Chairperson of the Committee on Financial Institutions, to which was referred the Motion to concur with House Amendment to the following Senate Bill, reported that the Committee recommends that it be approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 771

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 331

Offered by Senator Walsh and all Senators:
Mourns the death of David V. Wood of Springfield.

SENATE RESOLUTION 332

Offered by Senator Link and all Senators:
Mourns the death of James "Bob" Fagan of Wadsworth.

SENATE RESOLUTION 333

Offered by Senator Link and all Senators:
Mourns the death of Robert L. Mitchell of Waukegan.

SENATE RESOLUTION 334

Offered by Senator Demuzio, E. Jones and all Senators:
Mourns the death of Donald Blimling of Murrayville.

SENATE RESOLUTION 335

Offered by Senator Demuzio, E. Jones and all Senators:

[November 20, 2003]

Mourns the death of Phillip "Booley" Keck of Gillespie.

By unanimous consent, the foregoing resolutions were referred to the Resolutions Consent Calendar.

INTRODUCTION OF BILLS

SENATE BILL NO. 2133. Introduced by Senator Meeks, a bill for AN ACT concerning elections.

The bill was taken up, read by title a first time, ordered printed and referred to the Committee on Rules.

MESSAGES FROM THE GOVERNOR

Message for the Governor by Joseph B. Handley
Deputy Chief of Staff for Legislative Affairs

November 20, 2003

Mr. President,

The Governor directs me to lay before the Senate the following Message:

STATE OF ILLINOIS
EXECUTIVE DEPARTMENT

To the Honorable
Members of the Senate
Ninety-Third General Assembly

I have nominated and appointed the following named persons to the offices enumerated below and respectfully ask concurrence in and confirmation of these appointments of your Honorable body.

COMMUNITY COLLEGE BOARD, ILLINOIS

To be a member of the Illinois Community College Board for a term commencing November 14, 2003 and ending June 30, 2009:

Hermene D. Hartman of Chicago
Non-Salaried

To be a member of the Illinois Community College Board for a term commencing November 10, 2003 and ending June 30, 2009:

Marylou Lowder Kent of Springfield
Non-Salaried

To be a member of the Illinois Community College Board for a term commencing November 10, 2003 and ending June 30, 2009:

Suzanne Morris of Lindenhurst
Non- Salaried

NATURAL RESOURCES, DEPARTMENT OF: ADVISORY BOARD

To be a member of the Advisory Board for the Department of Natural Resources for a term commencing November 10, 2003 and ending January 19, 2009:

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George J. Camille of Springfield
Non-Salaried

To be a member of the Advisory Board for the Department of Natural Resources for a term commencing November 10, 2003 and ending January 19, 2009:

Sharon L. Morelli of Lockport
Non-Salaried

To be a member of the Advisory Board for the Department of Natural Resources for a term commencing November 10, 2003 and ending January 19, 2009:

Michael R. Murphy of Springfield
Non-Salaried

To be a member of the Advisory Board for the Department of Natural Resources for a term commencing November 10, 2003 and ending January 19, 2009:

Joyce O'Keefe of Highland Park
Non-Salaried

STUDENT ASSISTANCE COMMISSIONER, ILLINOIS

To be a member of the Illinois Student Assistance Commission for a term commencing November 17, 2003 and ending June 30, 2005:

George Thomas Lesica of Charleston
Non-Salaried

EXCUSED FROM ATTENDANCE

On motion of Senator Sieben, Senator Burzynski was excused from attendance due to attend Representative Wirsing's funeral.

MESSAGES FROM THE HOUSE

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 20

A bill for AN ACT in relation to executive agencies.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 20

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 20

AMENDMENT NO. 1____. Amend Senate Bill 20 by replacing the title with the following:

"AN ACT concerning renewable fuels."; and

by replacing everything after the enacting clause with the following:

"Section 5.

The Illinois Renewable Fuels Development Program Act is amended by changing Sections 10 and 20 as follows:

(20 ILCS 689/10)

[November 20, 2003]

Sec. 10. Definitions. As used in this Act:

"Biodiesel" means a renewable diesel fuel derived from biomass that is intended for use in diesel engines.

"Biodiesel blend" means a blend of biodiesel with petroleum-based diesel fuel in which the resultant product contains no less than 1% and no more than 99% biodiesel.

"Biomass" means non-fossil organic materials that have an intrinsic chemical energy content. "Biomass" includes, but is not limited to, soybean oil, other vegetable oils, and ethanol.

"Department" means the Department of Commerce and Community Affairs.

"Diesel fuel" means any product intended for use or offered for sale as a fuel for engines in which the fuel is injected into the combustion chamber and ignited by pressure without electric spark.

"Director" means the Director of Commerce and Community Affairs.

"Ethanol" means a product produced from agricultural commodities or by-products used as a fuel or to be blended with other fuels for use in motor vehicles.

"Fuel" means fuel as defined in Section 1.19 of the Motor Fuel Tax Law.

"Gasohol" means motor fuel that is no more than 90% gasoline and at least 10% denatured ethanol that contains no more than 1.25% water by weight.

"Gasoline" means all products commonly or commercially known or sold as gasoline (including casing head and absorption or natural gasoline).

"Illinois agricultural product" means any agricultural commodity grown in Illinois that is used by a production facility to produce renewable fuel in Illinois, including, but not limited to, corn, barley, and soy beans.

"Labor Organization" ~~means any organization defined as a "labor organization" under Section 2 of the National Labor Relations Act (29 U.S.C. 152) means any organization:~~

~~(1) in which construction trades, crafts, or labor employees, or all or any of these participate; and~~

~~(2) that represents construction trades, crafts, or labor employees, or any or all of these; and~~

~~(3) that exists for the purpose, in whole or in part, of negotiating with the employers of construction trades, crafts, or labor employees, or any or all of these, terms and conditions of employment, including but not limited to: wages, hours of work, overtime provisions, fringe benefits, and the settlement of grievances; and~~

~~(4) that participates in apprenticeship and training approved and registered with the United States Department of Labor's Bureau of Apprenticeship and Training, in the State of Illinois.~~

"Majority blended ethanol fuel" means motor fuel that contains no less than 70% and no more than 90% denatured ethanol and no less than 10% and no more than 30% gasoline.

"Motor vehicles" means motor vehicles as defined in the Illinois Vehicle Code and watercraft propelled by an internal combustion engine.

"Owner" means any individual, sole proprietorship, limited partnership, co-partnership, joint venture, corporation, cooperative, or other legal entity, including its agents, that operates or will operate a plant located within the State of Illinois.

"Plant" means a production facility that produces a renewable fuel. "Plant" includes land, any building or other improvement on or to land, and any personal properties deemed necessary or suitable for use, whether or not now in existence, in the processing of fuel from agricultural commodities or by-products.

"Renewable fuel" means ethanol, gasohol, majority blended ethanol fuel, biodiesel blend fuel, and biodiesel. (Source: P.A. 93-15, eff. 6-11-03.)

(20 ILCS 689/20)

Sec. 20. Grants. Subject to appropriation from the ~~Build Illinois Bond Fund~~ General Revenue Fund, the Director is authorized to award grants to eligible applicants. The annual aggregate amount of grants awarded shall not exceed \$15,000,000. (Source: P.A. 93-15, eff. 6-11-03.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 20**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 857

A bill for AN ACT in relation to financial regulation.

[November 20, 2003]

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 2 to SENATE BILL NO. 857

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 857

AMENDMENT NO. 2 _____. Amend Senate Bill 857 by replacing everything after the enacting clause with the following:

"Section 5.

The Illinois Credit Union Act is amended by changing Section 12 as follows:

(205 ILCS 305/12) (from Ch. 17, par. 4413)

Sec. 12. Regulatory fees. (1) A credit union regulated by the Department shall pay a regulatory fee to the Department based upon its total assets as shown by its Year-end Call Report at the following rates:

TOTAL ASSETS	REGULATORY FEE
\$25,000 or less	<u>\$100</u> \$150
Over \$25,000 and not over \$100,000	<u>\$100</u> \$150 plus <u>\$4</u> \$6 per \$1,000 of assets in excess of \$25,000
Over \$100,000 and not over \$200,000	<u>\$400</u> \$600 plus <u>\$3</u> \$4.50 per \$1,000 of assets in excess of \$100,000
Over \$200,000 and not over \$500,000	<u>\$700</u> \$1,050 plus <u>\$2</u> \$3 per \$1,000 of assets in excess of \$200,000
Over \$500,000 and not over \$1,000,000	<u>\$1,300</u> \$1,950 plus <u>\$1.40</u> \$2.10 per \$1,000 of assets in excess of \$500,000
Over \$1,000,000 and not over \$5,000,000.....	<u>\$2,000</u> \$3,000 plus <u>\$0.50</u> \$0.75 per \$1,000 of assets in excess of \$1,000,000
Over \$5,000,000 and not over \$30,000,000	<u>\$5,080</u> \$6,000 plus <u>\$0.44</u> \$0.525 per \$1,000 assets in excess of \$5,000,000
Over \$30,000,000 and not over \$100,000,000	<u>\$16,192</u> \$19,125 plus <u>\$0.38</u> \$0.45 per \$1,000 of assets in excess of \$30,000,000

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Over \$100,000,000 and not over \$500,000,000	\$42,862 \$50,625 plus
<u>\$0.19</u> \$0.225	
per \$1,000 of assets in excess of \$100,000,000	
Over \$500,000,000	\$140,625 plus \$0.075
per \$1,000 of assets in excess of \$500,000,000	

(2) The Director shall review the regulatory fee schedule in subsection (1) and the projected earnings on those fees on an annual basis and adjust the fee schedule no more than 5% annually if necessary to defray the estimated administrative and operational expenses of the Department as defined in subsection (5). The Director shall provide credit unions with written notice of any adjustment made in the regulatory fee schedule.

(3) Not later than March 1 of each calendar year, a credit union shall pay to the Department a regulatory fee for that calendar year in accordance with the regulatory fee schedule in subsection (1), on the basis of assets as of the Year-end Call Report of the preceding year. The regulatory fee shall not be less than ~~\$100~~ \$150 or more than \$187,500, provided that the regulatory fee cap of \$187,500 shall be adjusted to incorporate the same percentage increase as the Director makes in the regulatory fee schedule from time to time under subsection (2). No regulatory fee shall be collected from a credit union until it has been in operation for one year.

(4) The aggregate of all fees collected by the Department under this Act shall be paid promptly after they are received, accompanied by a detailed statement thereof, into the State Treasury and shall be set apart in the Credit Union Fund, a special fund hereby created in the State treasury. The amount from time to time deposited in the Credit Union Fund and shall be used to offset the ordinary administrative and operational expenses of the Department under this Act. All earnings received from investments of funds in the Credit Union Fund shall be deposited into the Credit Union Fund and may be used for the same purposes as fees deposited into that Fund.

(5) The administrative and operational expenses for any calendar year shall mean the ordinary and contingent expenses for that year incidental to making the examinations provided for by, and for administering, this Act, including all salaries and other compensation paid for personal services rendered for the State by officers or employees of the State to enforce this Act; all expenditures for telephone and telegraph charges, postage and postal charges, office supplies and services, furniture and equipment, office space and maintenance thereof, travel expenses and other necessary expenses; all to the extent that such expenditures are directly incidental to such examination or administration.

(6) When the aggregate of all fees collected by the Department under this Act and all earnings thereon for any calendar year exceeds 150% of the total administrative and operational expenses under this Act for that year, such excess shall be credited to credit unions and applied against their regulatory fees for the subsequent year. The amount credited to a credit union shall be in the same proportion as the fee paid by such credit union for the calendar year in which the excess is produced bears to the aggregate of the fees collected by the Department under this Act for the same year.

(7) Examination fees for the year 2000 statutory examinations paid pursuant to the examination fee schedule in effect at that time shall be credited toward the regulatory fee to be assessed the credit union in calendar year 2001.

(8) Nothing in this Act shall prohibit the General Assembly from appropriating funds to the Department from the General Revenue Fund for the purpose of administering this Act. (Source: P.A. 92-293, eff. 8-9-01; 93-32, eff. 7-1-03.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 857**, with House Amendment No. 2 was referred to the Secretary's Desk.

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 932

[November 20, 2003]

A bill for AN ACT in relation to the regulation of professions.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 932

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 932

AMENDMENT NO. 1 _____. Amend Senate Bill 932 by replacing everything after the enacting clause with the following:

"Section 5.

The Illinois Plumbing License Law is amended by changing Sections 13.1, 18, 37, and 42 as follows:

(225 ILCS 320/13.1)

Sec. 13.1. Plumbing contractors; registration; applications. (1) On and after May 1, 2002, all persons or corporations desiring to engage in the business of plumbing contractor, other than any entity that maintains an audited net worth of shareholders' equity equal to or exceeding \$100,000,000, shall register in accordance with the provisions of this Act.

(2) Application for registration shall be filed with the Department each year, on or before the last day of ~~September~~ ~~April~~, in writing and on forms prepared and furnished by the Department. All plumbing contractor registrations expire on the last day of ~~September~~ ~~April~~ of each year.

(3) Applications shall contain the name, address, and telephone number of the person and the plumbing license of (i) the individual, if a sole proprietorship; (ii) the partner, if a partnership; or (iii) an officer, if a corporation. The application shall contain the business name, address, and telephone number, a current copy of the plumbing license, and any other information the Department may require by rule.

(4) Applicants shall submit an original certificate of insurance documenting that the contractor carries general liability insurance with a minimum of \$100,000 per occurrence, ~~bodily injury insurance with a minimum of \$300,000 aggregate for bodily injury per occurrence~~, property damage insurance with a minimum of \$50,000 ~~or a minimum of \$300,000 combined single limit~~, and workers compensation insurance with a minimum \$500,000 ~~employer's liability~~. No registration may be issued in the absence of this certificate. Certificates must be in force at all times for registration to remain valid.

(5) Applicants shall submit, on a form provided by the Department, an indemnification bond in the amount of \$20,000 or a letter of credit in the same amount for work performed in accordance with this Act and the rules promulgated under this Act.

(6) All employees of a registered plumbing contractor who engage in plumbing work shall be licensed plumbers or apprentice plumbers in accordance with this Act.

(7) Plumbing contractors shall submit an annual registration fee in an amount to be established by rule.

(8) The Department shall be notified in advance of any changes in the business structure, name, or location or of the addition or deletion of the owner or officer who is the licensed plumber listed on the application. Failure to notify the Department of this information is grounds for suspension or revocation of the plumbing contractor's registration.

(9) In the event that the plumber's license on the application for registration of a plumbing contractor is a license issued by the City of Chicago, it shall be the responsibility of the applicant to forward a copy of the plumber's license to the Department, noting the name of the registered plumbing contractor, when it is renewed. (Source: P.A. 92-338, eff. 8-10-01.)

(225 ILCS 320/18) (from Ch. 111, par. 1117)

Sec. 18. Local regulation; Department standards. (1) It is hereby declared to be the policy of this State that each city, town, village, township or county with a water supply system or sewage disposal system or both should so soon after the enactment of this Act as practicable, with the advice of the State Department of Public Health, provide by ordinance, bylaws or rules and regulations for the materials, construction, alteration, and inspection of all plumbing placed in or in connection with any building in any such city, town, village, township, or county and to provide for and appoint a competent Plumbing Inspector or more as required. The Department may by rule establish voluntary standards for the content and conduct of local plumbing regulation and inspection programs and may evaluate and certify local programs that are in compliance with the voluntary standards. The Department may by rule establish voluntary education, training, and experience standards for Plumbing Inspectors and may certify Plumbing Inspectors who are in compliance with the voluntary standards. Nothing contained in this Act shall prohibit any city, town, village, township or county from providing for a Plumbing Inspector or

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from requiring permits for the installation and repair of plumbing and collecting a fee therefor, but a city, town, village, township, or county that requires a permit for installation and repair of plumbing may not issue that permit without verification that the applicant has a valid plumbing license or that the applicant is the owner occupant of a single family residence that is the subject of the permit. For the purpose of this Section, the term "occupant" has the same meaning as in subsection (2) of Section 3 of this Act. No person shall be appointed as a Plumbing Inspector who is not a licensed plumber under this Act, including persons employed as Plumbing Inspectors in home rule units.

(2) The Department of Public Health shall conduct inquiry in any city, town, village, township, or county or at any other place in the State when reasonably necessary in the judgment of the Director of the Department of Public Health to safeguard the health of any person or persons in this State, on account of piping or appurtenant appliances within any building, or outside, when such piping and appliances are for the use of plumbing as defined in this Act and for the use of carrying sewage or waste within or from any building.

The Department of Public Health may conduct such inquiries in any city, town, village, township or county in this State by directing the Plumbing Inspector thereof to aid in or conduct such inquiry or investigation in behalf of the Department of Public Health or the Department of Public Health may designate some other person or persons to conduct such investigation. (Source: P.A. 90-714, eff. 8-7-98.)

(225 ILCS 320/37) (from Ch. 111, par. 1135)

Sec. 37. Each governmental unit which is authorized to adopt and has adopted any ordinance or resolution regulating plumbing may provide for its administration and enforcement by requiring permits for any plumbing system installation, the inspection of plumbing system installations by inspectors who are licensed as plumbers in accordance with the Illinois Plumbing License Law, and the issue of certificates of approval or compliance which shall be evidence that a plumbing system has been installed in compliance with the Code of standards so adopted.

In any municipality in a county with a population over 500,000, a letter of intent shall be included with all plumbing permit applications. The letter shall be written on the licensed plumber of record's personal stationary and shall include the license holder's signature and corporate seal. A home rule unit in a county with a population over 500,000 may not regulate the information required to be included with an application for a plumbing permit in a manner less restrictive than this Section. This Section is a limitation under subsection (i) of Section 6 of Article VII of the Illinois Constitution on the concurrent exercise by home rule units of powers and functions exercised by the State.

A governmental unit authorized to adopt regulations may, by ordinance or resolution, prescribe reasonable fees for the issue of permits for installation work, the issue of certificates of compliance or approval, and for the inspection of plumbing installations. (Source: P.A. 79-1000.)

(225 ILCS 320/42)

Sec. 42. Home rule. Pursuant to paragraph (h) of Section 6 of Article VII of the Illinois Constitution of 1970 the power to regulate the licensing of plumbers, ~~to promulgate the promulgation of~~ a minimum plumbing code of standards, and ~~the power~~ to regulate the registration of irrigation contractors and plumbing contractors shall, except as may otherwise be provided within and pursuant to the provisions of Section 16 and Section 16.1 of this Act, be exercised by the State and may not be exercised by any unit of local government, including home rule units. (Source: P.A. 91-678, eff. 1-26-00.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 932**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1412

A bill for AN ACT concerning anatomical gifts.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1412

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

[November 20, 2003]

AMENDMENT NO. 1 TO SENATE BILL 1412

AMENDMENT NO. 1____. Amend Senate Bill 1412, on page 1, line 28, by deleting "of"; and on page 1, line 29 by deleting "the recipient"; and on page 49, line 8, by replacing "Section" with "Act Section"; and on page 49, by replacing line 10 with "purpose specified in Section 4 of this Act, except in"; and on page 52, line 16, by replacing "45" with "482.45".

Under the rules, the foregoing **Senate Bill No. 1412**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1676

A bill for AN ACT in relation to local government.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1676

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1676

AMENDMENT NO. 1____. Amend Senate Bill 1676 by replacing everything after the enacting clause with the following:

"Section 5.

The Counties Code is amended by changing Section 4-12002 as follows:

(55 ILCS 5/4-12002) (from Ch. 34, par. 4-12002)

Sec. 4-12002. Fees of recorder in third class counties. The fees of the recorder in counties of the third class for recording deeds or other instruments in writing and maps of plats of additions, subdivisions or otherwise, and for certifying copies of records, shall be paid in advance and shall be as follows:

For recording deeds or other instruments \$20 for the first 2 pages thereof, plus \$2 for each additional page thereof. The aggregate minimum fee for recording any one instrument shall not be less than \$20.

For recording deeds or other instruments wherein the premises affected thereby are referred to by document number and not by legal description the recorder shall charge a fee of \$4 in addition to that hereinabove referred to for each document number therein noted.

For recording deeds or other instruments wherein more than one tract, parcel or lot is described and such additional tract, or tracts, parcel or parcels, lot or lots is or are described therein as falling in a separate or different addition or subdivision the recorder shall charge as an additional fee, to that herein provided, the sum of \$2 for each additional addition or subdivision referred to in such deed or instrument.

For recording maps or plats of additions, subdivisions or otherwise (including the spreading of the same of record in well bound books) \$100 plus \$2 for each tract, parcel or lot contained therein.

For certified copies of records the same fees as for recording, but in no case shall the fee for a certified copy of a map or plat of an addition, subdivision or otherwise exceed \$200.

For non-certified copies of records, an amount not to exceed one half of the amount provided herein for certified copies, according to a standard scale of fees, established by county ordinance and made public.

For filing of each release of any chattel mortgage or trust deed which has been filed but not recorded and for indexing the same in the book to be kept for that purpose \$10.

For processing the sworn or affirmed statement required for filing a deed or assignment of a beneficial interest in a land trust in accordance with Section 3-5020 of this Code, \$2.

The recorder shall charge an additional fee, in an amount equal to the fee otherwise provided by law, for recording a document (other than a document filed under the Plat Act or the Uniform Commercial Code) that does not conform to the following standards:

(1) The document shall consist of one or more individual sheets measuring 8.5 inches by 11 inches, not permanently bound and not a continuous form. Graphic displays accompanying a

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document to be recorded that measure up to 11 inches by 17 inches shall be recorded without charging an additional fee.

(2) The document shall be legibly printed in black ink, by hand, type, or computer. Signatures and dates may be in contrasting colors if they will reproduce clearly.

(3) The document shall be on white paper of not less than 20-pound weight and shall have a clean margin of at least one-half inch on the top, the bottom, and each side. Margins may be used only for non-essential notations that will not affect the validity of the document, including but not limited to form numbers, page numbers, and customer notations.

(4) The first page of the document shall contain a blank space, measuring at least 3 inches by 5 inches, from the upper right corner.

(5) The document shall not have any attachment stapled or otherwise affixed to any page.

A document that does not conform to these standards shall not be recorded except upon payment of the additional fee required under this paragraph. This paragraph, as amended by this amendatory Act of 1995, applies only to documents dated after the effective date of this amendatory Act of 1995.

The fee requirements of this Section apply to units of local government and school districts.

Regardless of any other provision in this Section, the maximum fee that may be collected from the Department of Revenue for filing or indexing a lien, certificate of lien release or subordination, or any other type of notice or other documentation affecting or concerning a lien is \$5. Regardless of any other provision in this Section, the maximum fee that may be collected from the Department of Revenue for indexing each additional name in excess of one for any lien, certificate of lien release or subordination, or any other type of notice or other documentation affecting or concerning a lien is \$1. (Source: P.A. 92-492, eff. 1-1-02.)

Section 99. Effective date. This Act takes effect on June 1, 2004."

Under the rules, the foregoing **Senate Bill No. 1676**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1883

A bill for AN ACT concerning taxes.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 2 to SENATE BILL NO. 1883

House Amendment No. 4 to SENATE BILL NO. 1883

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 1883

AMENDMENT NO. 2 _____. Amend Senate Bill 1883, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5.

The Property Tax Code is amended by changing Sections 31-5, 31-10, 31-20, and 31-25 and by adding Section 3-46 as follows:

(35 ILCS 200/31-5)

Sec. 31-5. Definitions. "Recordation" includes the issuance of certificates of title by Registrars of Title under the Registered Titles (Torrens) Act pursuant to the filing of deeds or trust documents for that purpose, as well as the recording of deeds or trust documents by recorders.

"Department" means the Department of Revenue.

"Person" means any natural individual, firm, partnership, association, joint stock company, joint adventure, public or private corporation, limited liability company, or a receiver, executor, trustee, guardian or other representative appointed by order of any court.

"Value" means the amount of the full actual consideration for the real property, including the amount of any lien on the real property assumed by the buyer.

"Trust document" means a document required to be recorded under the Land Trust Recordation and Transfer Tax Act.

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"Beneficial interest" includes, but is not limited to:

- (1) the beneficial interest in an Illinois land trust;
- (2) the lessee interest in a ground lease (including any interest of the lessee in the related improvements) that provides for a term of 30 or more years when all options to renew or extend are included, whether or not any portion of the term has expired; or
- (3) the indirect interest in real property as reflected by a controlling interest in a real estate entity.

"Controlling interest" means more than 50% of the fair market value of all ownership interests or beneficial interests in a real estate entity.

"Real estate entity" means any person including, but not limited to, any partnership, corporation, limited liability company, trust, other entity, or multi-tiered entity, that exists or acts substantially for the purpose of holding directly or indirectly title to or beneficial interest in real property. There is a rebuttable presumption that an entity is a real estate entity if it owns, directly or indirectly, real property having a fair market value greater than 75% of the total fair market value of all of the entity's assets, determined without deduction for any mortgage, lien, or encumbrance. (Source: P.A. 92-651, eff. 7-11-02.)

(35 ILCS 200/31-10)

Sec. 31-10. Imposition of tax. A tax is imposed on the privilege of transferring title to real estate located in Illinois, as represented by the deed that is filed for recordation, and on the privilege of transferring a beneficial interest in real property located in Illinois that is the subject of a land trust as represented by the trust document that is filed for recordation, and on the privilege of transferring a controlling interest in a real estate entity owning property located in Illinois, at the rate of 50and #xA2; for each \$500 of value or fraction of \$500 stated in the declaration required by Section 31-25. If, however, the deed or trust document states that the real estate, beneficial interest, or controlling interest is transferred subject to a mortgage, the amount of the mortgage remaining outstanding at the time of transfer shall not be included in the basis of computing the tax. The tax is due if the transfer is made by one or more related transactions or involves one or more persons or entities and whether or not a document is recorded. (Source: P.A. 86-624; 86-925; 86-1028; 86-1475; 87-543; 88-455.)

(35 ILCS 200/31-20)

Sec. 31-20. Affixing of stamps. Payment of the tax shall be evidenced by revenue stamps in the amount required to show full payment of the tax imposed by Section 31-10. Except as provided in Section 31-45, a deed, document transferring a controlling interest in real property, or trust document shall not be accepted for filing by any recorder or registrar of titles unless revenue stamps in the required amount have been purchased from the recorder or registrar of titles of the county where the deed, document transferring a controlling interest in real property, or trust document is being filed for recordation. The revenue stamps shall be affixed to the deed, document transferring a controlling interest in real property, or trust document by the recorder or the registrar of titles either before or after recording as requested by the grantee. A person using or affixing a revenue stamp shall cancel it and so deface it as to render it unfit for reuse by marking it with his or her initials and the day, month and year when the affixing occurs. The marking shall be made by writing or stamping in indelible ink or by perforating with a machine or punch. However, the revenue stamp shall not be so defaced as to prevent ready determination of its denomination and genuineness. (Source: P.A. 86-624; 86-925; 86-1028; 86-1475; 87-543; 88-455.)

(35 ILCS 200/31-25)

Sec. 31-25. Transfer declaration. At the time a deed, a document transferring a controlling interest in real property, or trust document is presented for recordation, or within 3 business days after the transfer is effected, whichever is earlier, there shall also be presented to the recorder or registrar of titles a declaration, signed by at least one of the sellers and also signed by at least one of the buyers in the transaction or by the attorneys or agents for the sellers or buyers. The declaration shall state information including, but not limited to: (a) the value of the real property or beneficial interest in real property located in Illinois the full consideration for the property so transferred; (b) the parcel identifying number of the property; (c) the legal description of the property; (d) the date of the deed, the date the transfer was effected, or the date of the trust document; (e) the type of deed, transfer, or trust document; (f) the address of the property; (g) the type of improvement, if any, on the property; (h) information as to whether the transfer is between related individuals or corporate affiliates or is a compulsory transaction; (i) the lot size or acreage; (j) the value of personal property sold with the real estate; (k) the year the contract was initiated if an installment sale; and (l) the name, address, and telephone number of the person preparing the declaration. Except as provided in Section 31-45, a deed, a document transferring a controlling interest in real property, or trust document shall not be accepted for recordation unless it is accompanied by a declaration containing all the information requested in the declaration. When the

declaration is signed by an attorney or agent on behalf of sellers or buyers who have the power of direction to deal with the title to the real estate under a land trust agreement, the trustee being the mere repository of record legal title with a duty of conveying the real estate only when and if directed in writing by the beneficiary or beneficiaries having the power of direction, the attorneys or agents executing the declaration on behalf of the sellers or buyers need identify only the land trust that is the repository of record legal title and not the beneficiary or beneficiaries having the power of direction under the land trust agreement. The declaration form shall be prescribed by the Department and shall contain sales information questions. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall contain questions regarding the financing of the sale. The subject of the financing questions shall include any direct seller participation in the financing of the sale or information on financing that is unconventional so as to affect the fair cash value received by the seller. The intent of the sales and financing questions is to aid in the reduction in the number of buyers required to provide financing information necessary for the adjustment outlined in Section 17-10. For sales occurring during a period in which the provisions of Section 17-10 require the Department to adjust sale prices for seller paid points and prevailing cost of cash, the declaration form shall include, at a minimum, the following data: (a) seller paid points, (b) the sales price, (c) type of financing (conventional, VA, FHA, seller-financed, or other), (d) down payment, (e) term, (f) interest rate, (g) type and description of interest rate (fixed, adjustable or renegotiable), and (h) an appropriate place for the inclusion of special facts or circumstances, if any. The Department shall provide an adequate supply of forms to each recorder and registrar of titles in the State. (Source: P.A. 91-555, eff. 1-1-00.)

(35 ILCS 200/31-46 new)

Sec. 31-46. Exemption from tax equal to corporate franchise taxes paid. If a transfer of a controlling interest in a real estate entity is taxed under this Article and the real estate entity liable for the tax under this Article is also liable for corporate franchise taxes under the Business Corporation Act of 1983 as a result of the transfer, then the real estate entity is exempt from paying the tax imposed under this Article to the extent of the corporate franchise tax paid by the real estate entity as a result of the transfer. The exemption shall not reduce the real estate entity's tax liability under this Article to less than zero.

Section 10.

The Stock, Commodity, or Options Transaction Tax Exemption Act is amended by adding Section 3 as follows:

(35 ILCS 820/3 new)

Sec. 3. Construction of Act. Nothing in this Act shall be construed as prohibiting or otherwise invalidating any real estate transfer tax or fee authorized or permitted by Section 31-10 of the Property Tax Code, Section 5-1031.1 of the Counties Code, or Section 8-3-19 of the Illinois Municipal Code. This Section is intended as a clarification and not as a change to existing law.

Section 15.

The Counties Code is amended by changing Section 5-1031.1 as follows:

(55 ILCS 5/5-1031.1)

Sec. 5-1031.1. Home rule real estate transfer taxes. (a) After the effective date of this amendatory Act of the 93rd General Assembly ~~1996~~ and subject to this Section, a home rule county may impose or increase a tax or other fee on the privilege of transferring title to real estate, ~~as represented by the deed that is filed for recordation, and on the privilege of transferring a beneficial interest in a land trust holding legal title to real property, and on the privilege of transferring a controlling interest in a real estate entity, as the terms "beneficial interest", "controlling interest", and "real estate entity" are defined in Article 31 of the Property Tax Code as represented by the trust document that is filed for recordation.~~ Such a tax or other fee on the privilege of transferring title to real estate, ~~as represented by the deed that is filed for recordation, and on the privilege of transferring a beneficial interest in a land trust holding legal title to real property, as represented by the trust document that is filed for recordation,~~ shall hereafter be referred to as a real estate transfer tax.

(b) Before adopting a resolution to submit the question of imposing or increasing a real estate transfer tax to referendum, the corporate authorities shall give public notice of and hold a public hearing on the intent to submit the question to referendum. This hearing may be part of a regularly scheduled meeting of the corporate authorities. The notice shall be published not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the county. The notice shall be published in the following form:

Notice of Proposed (Increased) Real Estate Transfer Tax for (commonly known name of county).

A public hearing on a resolution to submit to referendum the question of a proposed (increased) real estate transfer tax for (legal name of the county) in an amount of (rate) to be paid by the buyer

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(seller) of the real estate transferred will be held on (date) at (time) at (location). The current rate of real estate transfer tax imposed by (name of county) is (rate).

Any person desiring to appear at the public hearing and present testimony to the taxing district may do so.

(c) A notice that includes any information not specified and required by this Section is an invalid notice. All hearings shall be open to the public. At the public hearing, the corporate authorities of the county shall explain the reasons for the proposed or increased real estate transfer tax and shall permit persons desiring to be heard an opportunity to present testimony within reasonable time limits determined by the corporate authorities. A copy of the proposed ordinance shall be made available to the general public for inspection before the public hearing.

(d) No home rule county shall impose a new real estate transfer tax after the effective date of this amendatory Act of 1996 without prior approval by referendum. No home rule county shall impose an increase of the rate of a current real estate transfer tax without prior approval by referendum. A home rule county may impose a new real estate transfer tax or may increase an existing real estate transfer tax with prior referendum approval. The referendum shall be conducted as provided in subsection (e). An existing ordinance or resolution imposing a real estate transfer tax may be amended without approval by referendum if the amendment does not increase the rate of the tax or add transactions on which the tax is imposed.

(e) The home rule county shall, by resolution, provide for submission of the proposition to the voters. The home rule county shall certify the resolution and the proposition to the proper election officials in accordance with the general election law. If the proposition is to impose a new real estate transfer tax, it shall be in substantially the following form: "Shall (name of county) impose a real estate transfer tax at a rate of (rate) to be paid by the buyer (seller) of the real estate transferred, with the revenue of the proposed transfer tax to be used for (purpose)?" If the proposition is to increase an existing real estate transfer tax, it shall be in the following form: "Shall (name of county) impose a real estate transfer tax increase of (percent increase) to establish a new real estate transfer tax rate of (rate) to be paid by the buyer (seller) of the real estate transferred? The current rate of the real estate transfer tax is (rate), and the revenue is used for (purpose). The revenue from the increase is to be used for (purpose)."

If a majority of the electors voting on the proposition vote in favor of it, the county may impose or increase the real estate transfer tax.

(f) Nothing in this amendatory Act of 1996 shall limit the purposes for which real estate transfer tax revenues may be collected or expended.

(g) A home rule county may not impose real estate transfer taxes other than as authorized by this Section. This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(h) Notwithstanding subsection (g) of this Section, any real estate transfer taxes adopted by a county at any time prior to January 17, 1997 (the effective date of Public Act 89-701) and any amendments to any existing real estate transfer tax ordinance adopted after that date, in accordance with the law in effect at the time of the adoption of the amendments, are not preempted by this amendatory Act of the 93rd General Assembly. (Source: P.A. 89-701, eff. 1-17-97; 90-14, eff. 7-1-97.)

Section 20.

The Illinois Municipal Code is amended by changing Section 8-3-19 as follows:

(65 ILCS 5/8-3-19)

Sec. 8-3-19. Home rule real estate transfer taxes. (a) After the effective date of this amendatory Act of ~~the 93rd General Assembly 1996~~ and subject to this Section, a home rule municipality may impose or increase a tax or other fee on the privilege of transferring title to real estate, ~~as represented by the deed that is filed for recordation, and on the privilege of transferring a beneficial interest in a land trust holding legal title to real property, and on the privilege of transferring a controlling interest in a real estate entity, as the terms "beneficial interest", "controlling interest", and "real estate entity" are defined in Article 31 of the Property Tax Code as represented by the trust document that is filed for recordation.~~ Such a tax or other fee on the privilege of transferring title to real estate, as represented by the deed that is filed for recordation, and on the privilege of transferring a beneficial interest in a land trust holding legal title to real property, as represented by the trust document that is filed for recordation, shall hereafter be referred to as a real estate transfer tax.

(b) Before adopting a resolution to submit the question of imposing or increasing a real estate transfer tax to referendum, the corporate authorities shall give public notice of and hold a public hearing on the intent to submit the question to referendum. This hearing may be part of a regularly scheduled meeting of the corporate authorities. The notice shall be published not more than 30 nor less than 10 days prior to the hearing in a newspaper of general circulation within the municipality. The notice shall be published

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in the following form:

Notice of Proposed (Increased) Real Estate Transfer Tax for (commonly known name of municipality).

A public hearing on a resolution to submit to referendum the question of a proposed (increased) real estate transfer tax for (legal name of the municipality) in an amount of (rate) to be paid by the buyer (seller) of the real estate transferred will be held on (date) at (time) at (location). The current rate of real estate transfer tax imposed by (name of municipality) is (rate).

Any person desiring to appear at the public hearing and present testimony to the taxing district may do so.

(c) A notice that includes any information not specified and required by this Section is an invalid notice. All hearings shall be open to the public. At the public hearing, the corporate authorities of the municipality shall explain the reasons for the proposed or increased real estate transfer tax and shall permit persons desiring to be heard an opportunity to present testimony within reasonable time limits determined by the corporate authorities. A copy of the proposed ordinance shall be made available to the general public for inspection before the public hearing.

(d) No home rule municipality shall impose a new real estate transfer tax after the effective date of this amendatory Act of 1996 without prior approval by referendum. No home rule municipality shall impose an increase of the rate of a current real estate transfer tax without prior approval by referendum. A home rule municipality may impose a new real estate transfer tax or may increase an existing real estate transfer tax with prior referendum approval. The referendum shall be conducted as provided in subsection (e). An existing ordinance or resolution imposing a real estate transfer tax may be amended without approval by referendum if the amendment does not increase the rate of the tax or add transactions on which the tax is imposed.

(e) The home rule municipality shall, by resolution, provide for submission of the proposition to the voters. The home rule municipality shall certify the resolution and the proposition to the proper election officials in accordance with the general election law. If the proposition is to impose a new real estate transfer tax, it shall be in substantially the following form: "Shall (name of municipality) impose a real estate transfer tax at a rate of (rate) to be paid by the buyer (seller) of the real estate transferred, with the revenue of the proposed transfer tax to be used for (purpose)?" If the proposition is to increase an existing real estate transfer tax, it shall be in the following form: "Shall (name of municipality) impose a real estate transfer tax increase of (percent increase) to establish a new transfer tax rate of (rate) to be paid by the buyer (seller) of the real estate transferred? The current rate of the real estate transfer tax is (rate), and the revenue is used for (purpose). The revenue from the increase is to be used for (purpose)."

If a majority of the electors voting on the proposition vote in favor of it, the municipality may impose or increase the municipal real estate transfer tax or fee.

(f) Nothing in this amendatory Act of 1996 shall limit the purposes for which real estate transfer tax revenues may be collected or expended.

(g) A home rule municipality may not impose real estate transfer taxes other than as authorized by this Section. This Section is a denial and limitation of home rule powers and functions under subsection (g) of Section 6 of Article VII of the Illinois Constitution.

(h) Notwithstanding subsection (g) of this Section, any real estate transfer taxes adopted by a municipality at any time prior to January 17, 1997 (the effective date of Public Act 89-701) and any amendments to any existing real estate transfer tax ordinance adopted after that date, in accordance with the law in effect at the time of the adoption of the amendments, are not preempted by this amendatory Act of the 93rd General Assembly. (Source: P.A. 89-701, eff. 1-17-97.)

Section 99. Effective date. This Act takes effect October 1, 2003."

AMENDMENT NO. 4 TO SENATE BILL 1883

AMENDMENT NO. 4 _____. Amend Senate Bill 1883, AS AMENDED, by deleting Section 99.

Under the rules, the foregoing **Senate Bill No. 1883**, with House Amendments numbered 2 and 4 was referred to the Secretary's Desk.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1944

[November 20, 2003]

A bill for AN ACT in relation to local governments.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1944

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1944

AMENDMENT NO. 1 _____. Amend Senate Bill 1944 by replacing the title with the following: "AN ACT concerning port districts."; and

by replacing everything after the enacting clause with the following:

"Section 5.

The Tri-City Regional Port District Act is amended by changing Section 4 as follows:

(70 ILCS 1860/4) (from Ch. 19, par. 287)

Sec. 4. The Port District has the following rights and powers: 1. To issue permits: for the construction of all wharves, piers, dolphins, booms, weirs, breakwaters, bulkheads, jetties, bridges or other structures of any kind, over, under, in, or within 40 feet of any navigable waters within the Port District; for the deposit of rock, earth, sand or other material, or any matter of any kind or description in such waters; except that nothing contained in this paragraph 1 shall be construed so that it will be deemed necessary to obtain a permit from the District for the erection, operation or maintenance of any bridge crossing a waterway which serves as a boundary between the State of Illinois and any other State, when such erection, operation or maintenance is performed by any city within the District;

2. To prevent or remove obstructions in navigable waters, including the removal of wrecks;

3. To locate and establish dock lines and shore or harbor lines;

4. To regulate the anchorage, moorage and speed of water borne vessels and to establish and enforce regulations for the operation of bridges, except nothing contained in this paragraph 4 shall be construed to give the District authority to regulate the operation of any bridge crossing a waterway which serves as a boundary between the State of Illinois and any other State, when such operation is performed or to be performed by any city within the District;

5. To acquire, own, construct, lease for any period not exceeding 99 years, operate and maintain terminals, terminal facilities and port facilities, to fix and collect just, reasonable, and nondiscriminatory charges for the use of such facilities, and, except as provided herein for short term financing, to use the charges so collected to defray the reasonable expenses of the Port District and to pay the principal of and interest on any revenue bonds issued by the District;

6. To acquire, erect, construct, reconstruct, improve, maintain, operate and lease in whole or part for any period not exceeding 99 years, central office or administrative facilities for use by the Port District, any tenant, occupant or user of the District facilities, or anyone engaged in commerce in the District.

7. To sell, assign, pledge or hypothecate in whole or in part any contract, lease, income, charges, tolls, rentals or fees of the District to provide short term interim financing pending the issuance of revenue bonds by the District, provided that when such revenue bonds are issued, such contracts, leases, income, charges, tolls, rentals or fees shall be used to defray the reasonable expenses of the Port District and pay the principal of and income on any revenue bonds issued by the District;

8. To acquire, own, construct, lease for any period not exceeding 99 years, operate, develop and maintain Port District water and sewerage systems including but not limited to pipes, mains, lines, sewers, pumping stations, settling tanks, treatment plants, water purification equipment, wells, storage facilities and all other equipment, material and facilities necessary to such systems, for the use upon payment of a reasonable fee as set by the District, of any tenant, occupant or user of the District facilities, or anyone engaged in commerce in the District, provided that the District shall not acquire, own, construct, lease, operate, develop and maintain such water and sewerage systems if such services can be provided by a public utility or municipal corporation upon request of the District, and provided further that if the District develops its own water and sewerage systems such systems may be sold or disposed of at anytime to any public utility or municipal corporation which will continue to service the Port District.

9. To create, establish, maintain and operate a public incinerator for waste disposal by incineration by any means or method, for use by municipalities for the disposal of municipal wastes and by industries for the disposal of industrial waste; and to lease land and said incineration facilities for the operation of an incinerator for a term not exceeding 99 years and to fix and collect just, reasonable and non-discriminatory charges for the use of such incinerating facilities, and to use the charges or lease proceeds

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to defray the reasonable expenses of the Port District, and to pay the principal of and interest on any revenue bonds issued by the Port District.

10. To locate, establish and maintain a public airport, public airports and public airport facilities within its corporate limits or within or upon any body of water adjacent thereto, and to construct, develop, expand, extend and improve any such airport or airport facilities;

11. To operate, maintain, manage, lease or sublease for any period not exceeding 99 years, and to make and enter into contracts for the use, operation or management of, and to provide rules and regulations for, the operation, management or use of, any public airport or public airport facility;

12. To fix, charge and collect reasonable rentals, tolls, fees, and charges for the use of any public airport, or any part thereof, or any public airport facility;

13. To establish, maintain, extend and improve roadways and approaches by land, water or air to any such airport and to contract or otherwise provide, by condemnation if necessary, for the removal of any airport hazard or the removal or relocation of all private structures, railways, mains, pipes, conduits, wires, poles, and all other facilities and equipment which may interfere with the location, expansion, development, or improvement of airports or with the safe approach thereto or take-off therefrom by aircraft, and to pay the cost of removal or relocation; and, subject to the "Airport Zoning Act", approved July 17, 1945, as amended, to adopt, administer and enforce airport zoning regulations for territory which is within its corporate limits or which extends not more than 2 miles beyond its corporate limits;

14. To restrict the height of any object of natural growth or structure or structures within the vicinity of any airport or within the lines of an approach to any airport and, when necessary, for the reduction in the height of any such existing object or structure, to enter into an agreement for such reduction or to accomplish same by condemnation;

15. To agree with the state or federal governments or with any public agency in respect to the removal and relocation of any object of natural growth, airport hazard or any structure or building within the vicinity of any airport or within an approach and which is owned or within the control of such government or agency and to pay all or an agreed portion of the cost of such removal or relocation;

16. For the prevention of accidents, for the furtherance and protection of public health, safety and convenience in respect to aeronautics, for the protection of property and persons within the District from any hazard or nuisance resulting from the flight of aircraft, for the prevention of interference between, or collision of, aircraft while in flight or upon the ground, for the prevention or abatement of nuisances in the air or upon the ground or for the extension or increase in the usefulness or safety of any public airport or public airport facility owned by the District, the District may regulate and restrict the flight of aircraft while within or above the incorporated territory of the District;

17. To police its physical property only and all waterways and to exercise police powers in respect thereto or in respect to the enforcement of any rule or regulation provided by the ordinances of the District and to employ and commission police officers and other qualified persons to enforce the same. The use of any such public airport or public airport facility of the District shall be subject to the reasonable regulation and control of the District and upon such reasonable terms and conditions as shall be established by its Board. A regulatory ordinance of the District adopted under any provision of this Section may provide for a suspension or revocation of any rights or privileges within the control of the District for a violation of any such regulatory ordinance. Nothing in this Section or in other provisions of this Act shall be construed to authorize such Board to establish or enforce any regulation or rule in respect to aviation, or the operation or maintenance of any airport facility within its jurisdiction, which is in conflict with any federal or state law or regulation applicable to the same subject matter;

18. To enter into agreements with the corporate authorities or governing body of any other municipal corporation or any political subdivision of this State to pay the reasonable expense of services furnished by such municipal corporation or political subdivision for or on account of income producing properties of the District;

19. To enter into contracts dealing in any manner with the objects and purposes of this Act;

20. To acquire, own, lease, sell or otherwise dispose of interests in and to real property and improvements situate thereon and in personal property necessary to fulfill the purposes of the District;

21. To designate the fiscal year for the District;

22. To engage in any activity or operation which is incidental to and in furtherance of efficient operation to accomplish the District's primary purpose;-

23. To apply to proper authorities of the United States of America pursuant to appropriated Federal Law for the right to establish, operate, maintain and lease foreign trade zones and sub-zones within the limits of the Tri-City Regional Port District or within the jurisdiction of the United States Customs Service Office of the St. Louis Port of Entry and to establish, operate, maintain and lease such foreign trade zones and the sub-zones;-

24. To operate, maintain, manage, lease, or sublease for any period not exceeding 99 years any former military base owned or leased by the District and within its jurisdictional boundaries, to make and enter into any contract for the use, operation, or management of any former military base owned or leased by the District and located within its jurisdictional boundaries, and to provide rules and regulations for the development, redevelopment, and expansion of any former military base owned or leased by the District and located within its jurisdictional boundaries;

25. To locate, establish, re-establish, expand or renew, construct or reconstruct, operate, and maintain any facility, building, structure, or improvement for a use or a purpose consistent with any use or purpose of any former military base owned or leased by the District and located within its jurisdictional boundaries;

26. To acquire, own, sell, convey, construct, lease for any period not exceeding 99 years, manage, operate, expand, develop, and maintain any electrical or telephone system, including, but not limited to, all equipment, materials, and facilities necessary or incidental to that electrical or telephone system, for use, at the option of the District and upon payment of a reasonable fee set by the District, of any tenant or occupant situated on any former military base owned or leased by the District and located within its jurisdictional boundaries;

27. To cause to be incorporated one or more subsidiary business corporations, wholly-owned by the District, to own, operate, maintain, and manage facilities and services related to any telephone system, pursuant to paragraph 26. A subsidiary corporation formed pursuant to this paragraph shall (i) be deemed a telecommunications carrier, as that term is defined in Section 13-202 of the Public Utilities Act, (ii) have the right to apply to the Illinois Commerce Commission for a Certificate of Service Authority or a Certificate of Interexchange Service Authority, and (iii) have the powers necessary to carry out lawful orders of the Illinois Commerce Commission;

28. To improve, develop, or redevelop any former military base situated within the boundaries of the District, in Madison County, Illinois, and acquired by the District from the federal government, acting by and through the United States Maritime Administration, pursuant to any plan for redevelopment, development, or improvement of that military base by the District that is approved by the United States Maritime Administration under the terms and conditions of conveyance of the former military base to the District by the federal government, (Source: P.A. 83-690.)"

Under the rules, the foregoing **Senate Bill No. 1944**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 875

A bill for AN ACT concerning higher education student assistance.
Passed the House, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1510

A bill for AN ACT concerning the freedom of information.
Passed the House, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 20

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Motion to Concur in House Amendment 2 to Senate Bill 857

Motion to Concur in House Amendments 2 and 4 to Senate Bill 1883

Motion to Concur in House Amendment 1 to Senate Bill 1944

HOUSE BILL RECALLED

On motion of Senator Welch, **House Bill No. 585** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 585 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by changing Sections 8.12, 8a, and 14.1 and adding Section 6z-61 as follows:

(30 ILCS 105/6z-61 new)

Sec. 6z-61. Transfers from Pension Contribution Fund.

(a) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer from the Pension Contribution Fund to the Teachers' Retirement System of Illinois an amount equal to the unexpended balance of the fiscal year 2004 appropriations to the System from the General Revenue Fund, the Education Assistance Fund, the Common School Fund, and the State Pensions Fund so that the amount received by the System in fiscal year 2004 is equal to the fiscal year 2004 certified contribution amount for the System as determined under Section 16-158 of the Illinois Pension Code.

(b) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer from the Pension Contribution Fund to the State Universities Retirement System an amount equal to the unexpended balance of the fiscal year 2004 appropriations to the System from the General Revenue Fund, the Education Assistance Fund, and the State Pensions Fund so that the amount received by the System in fiscal year 2004 is equal to the fiscal year 2004 certified contribution amount for the System as determined under Section 15-165 of the Illinois Pension Code.

(c) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer from the Pension Contribution Fund to the Judges Retirement System of Illinois an amount equal to the unexpended balance of the fiscal year 2004 appropriations to the System from the General Revenue Fund and the State Pensions Fund so that the amount received by the System in fiscal year 2004 is equal to the fiscal year 2004 certified contribution amount for the System as determined under Section 18-140 of the Illinois Pension Code.

(d) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the State Comptroller shall direct and the State Treasurer shall transfer from the Pension Contribution Fund to the General Assembly Retirement System an amount equal to the unexpended balance of the fiscal year 2004 appropriations to the System from the General Revenue Fund and the State Pensions Fund so that the amount received by the System in fiscal year 2004 is equal to the fiscal year 2004 certified contribution amount for the System as determined under Section 2-134 of the Illinois Pension Code.

(e) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, and taking into consideration the transfers provided for by subsections (a), (b), (c), and (d), the State Comptroller shall direct and the State Treasurer shall transfer the remaining balance in the Pension Contribution Fund to the State Employees' Retirement System of Illinois.

(30 ILCS 105/8.12) (from Ch. 127, par. 144.12)

Sec. 8.12. State Pensions Fund.

(a) The moneys in the State Pensions Fund shall be used exclusively for the administration of the Uniform Disposition of Unclaimed Property Act and for the payment of or repayment to the General Revenue Fund a portion of the required State contributions to the designated retirement systems.

"Designated retirement systems" means:

(1) the State Employees' Retirement System of Illinois;

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- (2) the Teachers' Retirement System of the State of Illinois;
- (3) the State Universities Retirement System;
- (4) the Judges Retirement System of Illinois; and
- (5) the General Assembly Retirement System.

(b) Each year the General Assembly may make appropriations from the State Pensions Fund for the administration of the Uniform Disposition of Unclaimed Property Act.

Each month, the Commissioner of the Office of Banks and Real Estate shall certify to the State Treasurer the actual expenditures that the Office of Banks and Real Estate incurred conducting unclaimed property examinations under the Uniform Disposition of Unclaimed Property Act during the immediately preceding month. Within a reasonable time following the acceptance of such certification by the State Treasurer, the State Treasurer shall pay from its appropriation from the State Pensions Fund to the Bank and Trust Company Fund and the Savings and Residential Finance Regulatory Fund an amount equal to the expenditures incurred by each Fund for that month.

Each month, the Director of Financial Institutions shall certify to the State Treasurer the actual expenditures that the Department of Financial Institutions incurred conducting unclaimed property examinations under the Uniform Disposition of Unclaimed Property Act during the immediately preceding month. Within a reasonable time following the acceptance of such certification by the State Treasurer, the State Treasurer shall pay from its appropriation from the State Pensions Fund to the Financial Institutions Fund and the Credit Union Fund an amount equal to the expenditures incurred by each Fund for that month.

(c) Each year the General Assembly shall appropriate a total amount equal to the balance in the State Pensions Fund at the close of business on June 30 of the preceding fiscal year, less \$5,000,000, as part of the required State contributions to the designated retirement systems. The amount of the appropriation to each designated retirement system shall constitute a portion of the total appropriation under this subsection for that fiscal year which is the same as that retirement system's portion of the total actuarial reserve deficiency of the systems, as most recently determined by the Governor's Office of Management and Budget Bureau of the Budget.

(d) The Governor's Office of Management and Budget Bureau of the Budget shall determine the individual and total reserve deficiencies of the designated retirement systems. For this purpose, the Governor's Office of Management and Budget Bureau of the Budget shall utilize the latest available audit and actuarial reports of each of the retirement systems and the relevant reports and statistics of the Public Employee Pension Fund Division of the Department of Insurance.

(d-1) As soon as practicable after the effective date of this amendatory Act of the 93rd General Assembly, the Comptroller shall direct and the Treasurer shall transfer from the State Pensions Fund to the General Revenue Fund, as funds become available, a sum equal to the amounts that would have been paid from the General Revenue Fund to the Teachers' Retirement System of the State of Illinois, the State Universities Retirement System, the Judges Retirement System of Illinois, the General Assembly Retirement System, and the State Employees' Retirement System of Illinois after the effective date of this amendatory Act during the remainder of fiscal year 2004 to the designated retirement systems from the appropriations provided for in this Section if the transfers provided in Section 6z-61 had not occurred. The transfers described in this subsection (d-1) are to partially repay the General Revenue Fund for the costs associated with the bonds used to fund the moneys transferred to the designated retirement systems under Section 6z-61.

(e) The changes to this Section made by this amendatory Act of 1994 shall first apply to distributions from the Fund for State fiscal year 1996.

(Source: P.A. 91-16, eff. 7-1-99; revised 8-23-03.)

(30 ILCS 105/8a) (from Ch. 127, par. 144a)

Sec. 8a. Common School Fund; transfers to Common School Fund and Education Assistance Fund.

(a) Except as provided in subsection (b) of this Section and except as otherwise provided in this subsection (a) with respect to amounts transferred from the General Revenue Fund to the Common School Fund for distribution therefrom for the benefit of the Teachers' Retirement System of the State of Illinois and the Public School Teachers' Pension and Retirement Fund of Chicago:

(1) With respect to all school districts, for each fiscal year other than fiscal year

1994, on or before the eleventh and twenty-first days of each of the months of August through the following July, at a time or times designated by the Governor, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Common School Fund and Education Assistance Fund, as appropriate, 1/24 or so much thereof as may be necessary of the amount appropriated to the State Board of Education for distribution to all school districts from such Common School Fund and Education Assistance Fund, for the fiscal year, including interest on the

School Fund proportionate for that distribution for such year.

(2) With respect to all school districts, but for fiscal year 1994 only, on the 11th day of August, 1993 and on or before the 11th and 21st days of each of the months of October, 1993 through July, 1994 at a time or times designated by the Governor, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Common School Fund 1/24 or so much thereof as may be necessary of the amount appropriated to the State Board of Education for distribution to all school districts from such Common School Fund, for fiscal year 1994, including interest on the School Fund proportionate for that distribution for such year; and on or before the 21st day of August, 1993 at a time or times designated by the Governor, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Common School Fund 3/24 or so much thereof as may be necessary of the amount appropriated to the State Board of Education for distribution to all school districts from the Common School Fund, for fiscal year 1994, including interest proportionate for that distribution on the School Fund for such fiscal year.

The amounts of the payments made in July of each year: (i) shall be considered an outstanding liability as of the 30th day of June immediately preceding those July payments, within the meaning of Section 25 of this Act; (ii) shall be payable from the appropriation for the fiscal year that ended on that 30th day of June; and (iii) shall be considered payments for claims covering the school year that commenced during the immediately preceding calendar year.

Notwithstanding the foregoing provisions of this subsection, as soon as may be after the 10th and 20th days of each of the months of August through May, 1/24, and on or as soon as may be after the 10th and 20th days of June, 1/12 of the annual amount appropriated to the State Board of Education for distribution and payment during that fiscal year from the Common School Fund to and for the benefit of the Teachers' Retirement System of the State of Illinois (until the end of State fiscal year 1995) and the Public School Teachers' Pension and Retirement Fund of Chicago as provided by the Illinois Pension Code and Section 18-7 of the School Code, or so much thereof as may be necessary, shall be transferred by the State Treasurer and the State Comptroller from the General Revenue Fund to the Common School Fund to permit semi-monthly payments from the Common School Fund to and for the benefit of such teacher retirement systems as required by Section 18-7 of the School Code.

Notwithstanding the other provisions of this Section, on or as soon as may be after the 15th day of each month, beginning in July of 1995, 1/12 of the annual amount appropriated for that fiscal year from the Common School Fund to the Teachers' Retirement System of the State of Illinois (other than amounts appropriated under Section 1.1 of the State Pension Funds Continuing Appropriation Act), or so much thereof as may be necessary, shall be transferred by the State Treasurer and the State Comptroller from the General Revenue Fund to the Common School Fund to permit monthly payments from the Common School Fund to that retirement system in accordance with Section 16-158 of the Illinois Pension Code and Section 18-7 of the School Code, except that such transfers in fiscal year 2004 from the General Revenue Fund to the Common School Fund for the benefit of the Teachers' Retirement System of the State of Illinois shall be reduced in the aggregate by the State Comptroller and State Treasurer to adjust for the amount transferred to the Teachers' Retirement System of the State of Illinois pursuant to subsection (a) of Section 6z-61. Amounts appropriated to the Teachers' Retirement System of the State of Illinois under Section 1.1 of the State Pension Funds Continuing Appropriation Act shall be transferred by the State Treasurer and the State Comptroller from the General Revenue Fund to the Common School Fund as necessary to provide for the payment of vouchers drawn against those appropriations.

The Governor may notify the State Treasurer and the State Comptroller to transfer, at a time designated by the Governor, such additional amount as may be necessary to effect advance distribution to school districts of amounts that otherwise would be payable in the next month pursuant to Sections 18-8 through 18-10 of the School Code. The State Treasurer and the State Comptroller shall thereupon transfer such additional amount. The aggregate amount transferred from the General Revenue Fund to the Common School Fund in the eleven months beginning August 1 of any fiscal year shall not be in excess of the amount necessary for payment of claims certified by the State Superintendent of Education pursuant to the appropriation of the Common School Fund for that fiscal year. Notwithstanding the provisions of the first paragraph in this section, no transfer to effect an advance distribution shall be made in any month except on notification, as provided above, by the Governor.

The State Comptroller and State Treasurer shall transfer from the General Revenue Fund to the Common School Fund and the Education Assistance Fund such amounts as may be required to honor the vouchers presented by the State Board of Education pursuant to Sections 18-3, 18-4.3, 18-5, 18-6 and 18-7 of the School Code.

The State Comptroller shall report all transfers provided for in this Act to the President of the Senate,

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Minority Leader of the Senate, Speaker of the House, and Minority Leader of the House.

(b) On or before the 11th and 21st days of each of the months of June, 1982 through July, 1983, at a time or times designated by the Governor, the State Treasurer and the State Comptroller shall transfer from the General Revenue Fund to the Common School Fund 1/24 or so much thereof as may be necessary of the amount appropriated to the State Board of Education for distribution from such Common School Fund, for that same fiscal year, including interest on the School Fund for such year. The amounts of the payments in the months of July, 1982 and July, 1983 shall be considered an outstanding liability as of the 30th day of June immediately preceding such July payment, within the meaning of Section 25 of this Act, and shall be payable from the appropriation for the fiscal year which ended on such 30th day of June, and such July payments shall be considered payments for claims covering school years 1981-1982 and 1982-1983 respectively.

In the event the Governor makes notification to effect advanced distribution under the provisions of subsection (a) of this Section, the aggregate amount transferred from the General Revenue Fund to the Common School Fund in the 12 months beginning August 1, 1981 or the 12 months beginning August 1, 1982 shall not be in excess of the amount necessary for payment of claims certified by the State Superintendent of Education pursuant to the appropriation of the Common School Fund for the fiscal years commencing on the first of July of the years 1981 and 1982.

(Source: P.A. 90-372, eff. 7-1-98; 90-587, eff. 7-1-98; 91-96, eff. 7-9-99.)

(30 ILCS 105/14.1) (from Ch. 127, par. 150.1)

Sec. 14.1. Appropriations for State contributions to the State Employees' Retirement System; payroll requirements.

(a) Appropriations for State contributions to the State Employees' Retirement System of Illinois shall be expended in the manner provided in this Section. Except as otherwise provided in subsection (a-1), at the time of each payment of salary to an employee under the personal services line item, payment shall be made to the State Employees' Retirement System, from the amount appropriated for State contributions to the State Employees' Retirement System, of an amount calculated at the rate certified for the applicable fiscal year by the Board of Trustees of the State Employees' Retirement System under Section 14-135.08 of the Illinois Pension Code. If a line item appropriation to an employer for this purpose is unavailable or exhausted, the amounts shall be paid under the continuing appropriation for this purpose contained in the State Pension Funds Continuing Appropriation Act.

(a-1) Beginning on the effective date of this amendatory Act of the 93rd General Assembly through the payment of the final payroll from fiscal year 2004 appropriations, appropriations for State contributions to the State Employees' Retirement System of Illinois shall be expended in the manner provided in this subsection (a-1). At the time of each payment of salary to an employee under the personal services line item from a fund other than the General Revenue Fund, payment shall be made for deposit into the General Revenue Fund from the amount appropriated for State contributions to the State Employees' Retirement System of an amount calculated at the rate certified for fiscal year 2004 by the Board of Trustees of the State Employees' Retirement System under Section 14-135.08 of the Illinois Pension Code. This payment shall be made to the extent that a line item appropriation to an employer for this purpose is available or unexhausted. No payment from appropriations for State contributions shall be made in conjunction with payment of salary to an employee under the personal services line item from the General Revenue Fund.

(b) Except during the period beginning on the effective date of this amendatory Act of the 93rd General Assembly and ending at the time of the payment of the final payroll from fiscal year 2004 appropriations, the State Comptroller shall not approve for payment any payroll voucher that (1) includes payments of salary to eligible employees in the State Employees' Retirement System of Illinois and (2) does not include the corresponding payment of State contributions to that retirement system at the full rate certified under Section 14-135.08 for that fiscal year for eligible employees, unless the balance in the fund on which the payroll voucher is drawn is insufficient to pay the total payroll voucher. If the State Comptroller approves a payroll voucher under this Section for which the fund balance is insufficient to pay the full amount of the required State contribution to the State Employees' Retirement System, the Comptroller shall promptly so notify the Retirement System.

(Source: P.A. 88-593, eff. 8-22-94; 89-136, eff. 7-14-95.)

Section 10. The General Obligation Bond Act is amended by changing Section 7.2 as follows:

(30 ILCS 330/7.2)

Sec. 7.2. State pension funding.

(a) The amount of \$10,000,000,000 is authorized to be used for the purpose of making contributions to the designated retirement systems. For the purposes of this Section, "designated retirement systems"

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means the State Employees' Retirement System of Illinois; the Teachers' Retirement System of the State of Illinois; the State Universities Retirement System; the Judges Retirement System of Illinois; and the General Assembly Retirement System.

(b) The Pension Contribution Fund is created as a special fund in the State Treasury.

The proceeds of the additional \$10,000,000,000 of Bonds authorized by this amendatory Act of the 93rd General Assembly, less the amounts authorized in the Bond Sale Order to be deposited directly into the capitalized interest account of the General Obligation Bond Retirement and Interest Fund or otherwise directly paid out for bond sale expenses under Section 8, shall be deposited into the Pension Contribution Fund and used as provided in this Section.

(c) Of the amount of Bond proceeds first deposited into the Pension Contribution Fund, there shall be reserved for transfers under this subsection the sum of \$300,000,000, representing the required State contributions to the designated retirement systems for the last quarter of State fiscal year 2003, plus the sum of \$1,860,000,000, representing the required State contributions to the designated retirement systems for State fiscal year 2004.

Upon the deposit of sufficient moneys into the Pension Contribution Fund, the Comptroller and Treasurer shall immediately transfer the sum of \$300,000,000 from the Pension Contribution Fund to the General Revenue Fund.

Whenever any payment of required State contributions for State fiscal year 2004 is made to one of the designated retirement systems, the Comptroller and Treasurer shall, as soon as practicable, transfer from the Pension Contribution Fund to the General Revenue Fund an amount equal to the amount of that payment to the designated retirement system. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, the transfers from the Pension Contribution Fund to the General Revenue Fund shall be suspended until June 30, 2004, and the remaining balance in the Pension Contribution Fund shall be transferred directly to the designated retirement systems as provided in Section 6z-6l of the State Finance Act. On and after July 1, 2004, in the event that any amount is on deposit in the Pension Contribution Fund from time to time if the amount reserved for these transfers exceeds the total amount of fiscal year 2004 payments of required State contributions to the designated retirement systems, the Comptroller and Treasurer shall continue to make such transfers based on fiscal year 2005 payments until the entire amount on deposit reserved has been transferred.

(d) All amounts deposited into the Pension Contribution Fund, other than the amounts reserved for the transfers under subsection (c), shall be appropriated to the designated retirement systems to reduce their actuarial reserve deficiencies. The amount of the appropriation to each designated retirement system shall constitute a portion of the total appropriation under this subsection that is the same as that retirement system's portion of the total actuarial reserve deficiency of the systems, as most recently determined by the Governor's Office of Management and Budget Bureau of the Budget under Section 8.12 of the State Finance Act.

Within 15 days after any Bond proceeds in excess of the amounts initially reserved under subsection (c) are deposited into the Pension Contribution Fund, the Governor's Office of Management and Budget Bureau of the Budget shall (i) allocate those proceeds among the designated retirement systems in proportion to their respective actuarial reserve deficiencies, as most recently determined under Section 8.12 of the State Finance Act, and (ii) certify those allocations to the designated retirement systems and the Comptroller.

Upon receiving certification of an allocation under this subsection, a designated retirement system shall submit to the Comptroller a voucher for the amount of its allocation. The voucher shall be paid out of the amount appropriated to that designated retirement system from the Pension Contribution Fund pursuant to this subsection.

(Source: P.A. 93-2, eff. 4-7-03; revised 8-23-03.)

Section 15. The Illinois Pension Code is amended by changing Sections 2-134, 14-131, 16-158, 15-165, and 18-140 as follows:

(40 ILCS 5/2-134) (from Ch. 108 1/2, par. 2-134)

Sec. 2-134. To certify required State contributions and submit vouchers.

(a) The Board shall certify to the Governor on or before November 15 of each year the amount of the required State contribution to the System for the next fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

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(b) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (d) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year. If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(c) The full amount of any annual appropriation for the System for State fiscal year 1995 shall be transferred and made available to the System at the beginning of that fiscal year at the request of the Board. Any excess funds remaining at the end of any fiscal year from appropriations shall be retained by the System as a general reserve to meet the System's accrued liabilities.

(Source: P.A. 93-2, eff. 4-7-03.)

(40 ILCS 5/14-131) (from Ch. 108 1/2, par. 14-131)

Sec. 14-131. Contributions by State.

(a) The State shall make contributions to the System by appropriations of amounts which, together with other employer contributions from trust, federal, and other funds, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the System on a 90% funded basis in accordance with actuarial recommendations.

For the purposes of this Section and Section 14-135.08, references to State contributions refer only to employer contributions and do not include employee contributions that are picked up or otherwise paid by the State or a department on behalf of the employee.

(b) The Board shall determine the total amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board, using the formula in subsection (e).

The Board shall also determine a State contribution rate for each fiscal year, expressed as a percentage of payroll, based on the total required State contribution for that fiscal year (less the amount received by the System from appropriations under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act, if any, for the fiscal year ending on the June 30 immediately preceding the applicable November 15 certification deadline), the estimated payroll (including all forms of compensation) for personal services rendered by eligible employees, and the recommendations of the actuary.

For the purposes of this Section and Section 14.1 of the State Finance Act, the term "eligible employees" includes employees who participate in the System, persons who may elect to participate in the System but have not so elected, persons who are serving a qualifying period that is required for participation, and annuitants employed by a department as described in subdivision (a)(1) or (a)(2) of Section 14-111.

(c) Contributions shall be made by the several departments for each pay period by warrants drawn by the State Comptroller against their respective funds or appropriations based upon vouchers stating the amount to be so contributed. These amounts shall be based on the full rate certified by the Board under Section 14-135.08 for that fiscal year. From the effective date of this amendatory Act of the 93rd General Assembly through the payment of the final payroll from fiscal year 2004 appropriations, the several departments shall not make contributions for the remainder of fiscal year 2004 but shall instead make payments as required under subsection (a-1) of Section 14.1 of the State Finance Act. The several departments shall resume those contributions at the commencement of fiscal year 2005.

(d) If an employee is paid from trust funds or federal funds, the department or other employer shall pay employer contributions from those funds to the System at the certified rate, unless the terms of the trust or the federal-State agreement preclude the use of the funds for that purpose, in which case the required employer contributions shall be paid by the State. From the effective date of this amendatory Act of the 93rd General Assembly through the payment of the final payroll from fiscal year 2004 appropriations, the department or other employer shall not pay contributions for the remainder of fiscal year 2004 but shall instead make payments as required under subsection (a-1) of Section 14.1 of the State Finance Act. The department or other employer shall resume payment of contributions at the

commencement of fiscal year 2005.

(e) For State fiscal years 2011 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 90% of the total actuarial liabilities of the System by the end of State fiscal year 2045. In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.

For State fiscal years 1996 through 2010, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section; except that (i) for State fiscal year 1998, for all purposes of this Code and any other law of this State, the certified percentage of the applicable employee payroll shall be 5.052% for employees earning eligible creditable service under Section 14-110 and 6.500% for all other employees, notwithstanding any contrary certification made under Section 14-135.08 before the effective date of this amendatory Act of 1997, and (ii) in the following specified State fiscal years, the State contribution to the System shall not be less than the following indicated percentages of the applicable employee payroll, even if the indicated percentage will produce a State contribution in excess of the amount otherwise required under this subsection and subsection (a): 9.8% in FY 1999; 10.0% in FY 2000; 10.2% in FY 2001; 10.4% in FY 2002; 10.6% in FY 2003; and 10.8% in FY 2004.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 90% of the total actuarial liabilities of the System.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and each fiscal year thereafter, as calculated under this Section and certified under Section 14-135.08, shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act.

(f) After the submission of all payments for eligible employees from personal services line items in fiscal year 2004 have been made, the Comptroller shall provide to the System a certification of the sum of all fiscal year 2004 expenditures for personal services that would have been covered by payments to the System under this Section if the provisions of this amendatory Act of the 93rd General Assembly had not been enacted. Upon receipt of the certification, the System shall determine the amount due to the System based on the full rate certified by the Board under Section 14-135.08 for fiscal year 2004 in order to meet the State's obligation under this Section. The System shall compare this amount due to the amount received by the System in fiscal year 2004 through payments under this Section and under Section 6z-61 of the State Finance Act. If the amount due is more than the amount received, the difference shall be termed the "Fiscal Year 2004 Shortfall" for purposes of this Section, and the Fiscal Year 2004 Shortfall shall be satisfied under Section 1.2 of the State Pension Funds Continuing Appropriation Act. If the amount due is less than the amount received, the difference shall be termed the "Fiscal Year 2004 Overpayment" for purposes of this Section, and the Fiscal Year 2004 Overpayment shall be repaid by the System to the Pension Contribution Fund as soon as practicable after the certification.

(Source: P.A. 93-2, eff. 4-7-03.)

(40 ILCS 5/16-158) (from Ch. 108 1/2, par. 16-158)

Sec. 16-158. Contributions by State and other employing units.

(a) The State shall make contributions to the System by means of appropriations from the Common School Fund and other State funds of amounts which, together with other employer contributions, employee contributions, investment income, and other income, will be sufficient to meet the cost of maintaining and administering the System on a 90% funded basis in accordance with actuarial recommendations.

The Board shall determine the amount of State contributions required for each fiscal year on the basis of the actuarial tables and other assumptions adopted by the Board and the recommendations of the actuary, using the formula in subsection (b-3).

(a-1) Annually, on or before November 15, the Board shall certify to the Governor the amount of the required State contribution for the coming fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

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On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

(b) Through State fiscal year 1995, the State contributions shall be paid to the System in accordance with Section 18-7 of the School Code.

(b-1) Beginning in State fiscal year 1996, on the 15th day of each month, or as soon thereafter as may be practicable, the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a-1). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (a) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this subsection, the difference shall be paid from the Common School Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(b-2) Allocations from the Common School Fund apportioned to school districts not coming under this System shall not be diminished or affected by the provisions of this Article.

(b-3) For State fiscal years 2011 through 2045, the minimum contribution to the System to be made by the State for each fiscal year shall be an amount determined by the System to be sufficient to bring the total assets of the System up to 90% of the total actuarial liabilities of the System by the end of State fiscal year 2045. In making these determinations, the required State contribution shall be calculated each year as a level percentage of payroll over the years remaining to and including fiscal year 2045 and shall be determined under the projected unit credit actuarial cost method.

For State fiscal years 1996 through 2010, the State contribution to the System, as a percentage of the applicable employee payroll, shall be increased in equal annual increments so that by State fiscal year 2011, the State is contributing at the rate required under this Section; except that in the following specified State fiscal years, the State contribution to the System shall not be less than the following indicated percentages of the applicable employee payroll, even if the indicated percentage will produce a State contribution in excess of the amount otherwise required under this subsection and subsection (a), and notwithstanding any contrary certification made under subsection (a-1) before the effective date of this amendatory Act of 1998: 10.02% in FY 1999; 10.77% in FY 2000; 11.47% in FY 2001; 12.16% in FY 2002; 12.86% in FY 2003; and 13.56% in FY 2004.

Beginning in State fiscal year 2046, the minimum State contribution for each fiscal year shall be the amount needed to maintain the total assets of the System at 90% of the total actuarial liabilities of the System.

Notwithstanding any other provision of this Section, the required State contribution for State fiscal year 2005 and each fiscal year thereafter, as calculated under this Section and certified under subsection (a-1), shall not exceed an amount equal to (i) the amount of the required State contribution that would have been calculated under this Section for that fiscal year if the System had not received any payments under subsection (d) of Section 7.2 of the General Obligation Bond Act, minus (ii) the portion of the State's total debt service payments for that fiscal year on the bonds issued for the purposes of that Section 7.2, as determined and certified by the Comptroller, that is the same as the System's portion of the total moneys distributed under subsection (d) of Section 7.2 of the General Obligation Bond Act.

(c) Payment of the required State contributions and of all pensions, retirement annuities, death benefits, refunds, and other benefits granted under or assumed by this System, and all expenses in connection with the administration and operation thereof, are obligations of the State.

If members are paid from special trust or federal funds which are administered by the employing unit, whether school district or other unit, the employing unit shall pay to the System from such funds the full accruing retirement costs based upon that service, as determined by the System. Employer contributions, based on salary paid to members from federal funds, may be forwarded by the distributing agency of the State of Illinois to the System prior to allocation, in an amount determined in accordance with guidelines established by such agency and the System.

(d) Effective July 1, 1986, any employer of a teacher as defined in paragraph (8) of Section 16-106

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shall pay the employer's normal cost of benefits based upon the teacher's service, in addition to employee contributions, as determined by the System. Such employer contributions shall be forwarded monthly in accordance with guidelines established by the System.

However, with respect to benefits granted under Section 16-133.4 or 16-133.5 to a teacher as defined in paragraph (8) of Section 16-106, the employer's contribution shall be 12% (rather than 20%) of the member's highest annual salary rate for each year of creditable service granted, and the employer shall also pay the required employee contribution on behalf of the teacher. For the purposes of Sections 16-133.4 and 16-133.5, a teacher as defined in paragraph (8) of Section 16-106 who is serving in that capacity while on leave of absence from another employer under this Article shall not be considered an employee of the employer from which the teacher is on leave.

(e) Beginning July 1, 1998, every employer of a teacher shall pay to the System an employer contribution computed as follows:

- (1) Beginning July 1, 1998 through June 30, 1999, the employer contribution shall be equal to 0.3% of each teacher's salary.
- (2) Beginning July 1, 1999 and thereafter, the employer contribution shall be equal to 0.58% of each teacher's salary.

The school district or other employing unit may pay these employer contributions out of any source of funding available for that purpose and shall forward the contributions to the System on the schedule established for the payment of member contributions.

These employer contributions are intended to offset a portion of the cost to the System of the increases in retirement benefits resulting from this amendatory Act of 1998.

Each employer of teachers is entitled to a credit against the contributions required under this subsection (e) with respect to salaries paid to teachers for the period January 1, 2002 through June 30, 2003, equal to the amount paid by that employer under subsection (a-5) of Section 6.6 of the State Employees Group Insurance Act of 1971 with respect to salaries paid to teachers for that period.

The additional 1% employee contribution required under Section 16-152 by this amendatory Act of 1998 is the responsibility of the teacher and not the teacher's employer, unless the employer agrees, through collective bargaining or otherwise, to make the contribution on behalf of the teacher.

If an employer is required by a contract in effect on May 1, 1998 between the employer and an employee organization to pay, on behalf of all its full-time employees covered by this Article, all mandatory employee contributions required under this Article, then the employer shall be excused from paying the employer contribution required under this subsection (e) for the balance of the term of that contract. The employer and the employee organization shall jointly certify to the System the existence of the contractual requirement, in such form as the System may prescribe. This exclusion shall cease upon the termination, extension, or renewal of the contract at any time after May 1, 1998.

(Source: P.A. 92-505, eff. 12-20-01; 93-2, eff. 4-7-03.)

(40 ILCS 5/15-165) (from Ch. 108 1/2, par. 15-165)

Sec. 15-165. To certify amounts and submit vouchers.

(a) The Board shall certify to the Governor on or before November 15 of each year the appropriation required from State funds for the purposes of this System for the following fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

(b) The Board shall certify to the State Comptroller or employer, as the case may be, from time to time, by its president and secretary, with its seal attached, the amounts payable to the System from the various funds.

(c) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (b) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance

Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(d) So long as the payments received are the full amount lawfully vouchered under this Section, payments received by the System under this Section shall be applied first toward the employer contribution to the self-managed plan established under Section 15-158.2. Payments shall be applied second toward the employer's portion of the normal costs of the System, as defined in subsection (f) of Section 15-155. The balance shall be applied toward the unfunded actuarial liabilities of the System.

(e) In the event that the System does not receive, as a result of legislative enactment or otherwise, payments sufficient to fully fund the employer contribution to the self-managed plan established under Section 15-158.2 and to fully fund that portion of the employer's portion of the normal costs of the System, as calculated in accordance with Section 15-155(a-1), then any payments received shall be applied proportionately to the optional retirement program established under Section 15-158.2 and to the employer's portion of the normal costs of the System, as calculated in accordance with Section 15-155(a-1).

(Source: P.A. 93-2, eff. 4-7-03.)

(40 ILCS 5/18-140) (from Ch. 108 1/2, par. 18-140)

Sec. 18-140. To certify required State contributions and submit vouchers.

(a) The Board shall certify to the Governor, on or before November 15 of each year, the amount of the required State contribution to the System for the following fiscal year. The certification shall include a copy of the actuarial recommendations upon which it is based.

On or before May 1, 2004, the Board shall recalculate and recertify to the Governor the amount of the required State contribution to the System for State fiscal year 2005, taking into account the amounts appropriated to and received by the System under subsection (d) of Section 7.2 of the General Obligation Bond Act.

(b) Beginning in State fiscal year 1996, on or as soon as possible after the 15th day of each month the Board shall submit vouchers for payment of State contributions to the System, in a total monthly amount of one-twelfth of the required annual State contribution certified under subsection (a). From the effective date of this amendatory Act of the 93rd General Assembly through June 30, 2004, the Board shall not submit vouchers for the remainder of fiscal year 2004 in excess of the fiscal year 2004 certified contribution amount determined under this Section after taking into consideration the transfer to the System under subsection (c) of Section 6z-61 of the State Finance Act. These vouchers shall be paid by the State Comptroller and Treasurer by warrants drawn on the funds appropriated to the System for that fiscal year.

If in any month the amount remaining unexpended from all other appropriations to the System for the applicable fiscal year (including the appropriations to the System under Section 8.12 of the State Finance Act and Section 1 of the State Pension Funds Continuing Appropriation Act) is less than the amount lawfully vouchered under this Section, the difference shall be paid from the General Revenue Fund under the continuing appropriation authority provided in Section 1.1 of the State Pension Funds Continuing Appropriation Act.

(Source: P.A. 93-2, eff. 4-7-03.)

Section 20. The State Pension Funds Continuing Appropriation Act is amended by changing Section 1.2 as follows:

(40 ILCS 15/1.2)

Sec. 1.2. Appropriations for the State Employees' Retirement System.

(a) From each fund from which an amount is appropriated for personal services to a department or other employer under Article 14 of the Illinois Pension Code, there is hereby appropriated to that department or other employer, on a continuing annual basis for each State fiscal year, an additional amount equal to the amount, if any, by which (1) an amount equal to the percentage of the personal services line item for that department or employer from that fund for that fiscal year that the Board of Trustees of the State Employees' Retirement System of Illinois has certified under Section 14-135.08 of the Illinois Pension Code to be necessary to meet the State's obligation under Section 14-131 of the Illinois Pension Code for that fiscal year, exceeds (2) the amounts otherwise appropriated to that department or employer from that fund for State contributions to the State Employees' Retirement System for that fiscal year. From the effective date of this amendatory Act of the 93rd General Assembly through the final payment from a department or employer's personal services line item for fiscal year 2004, payments to the State Employees' Retirement System that otherwise would have been made under

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this subsection (a) shall be governed by the provisions in subsection (a-1).

(a-1) If a Fiscal Year 2004 Shortfall is certified under subsection (f) of Section 14-131 of the Illinois Pension Code, there is hereby appropriated to the State Employees' Retirement System of Illinois on a continuing basis from the General Revenue Fund an additional aggregate amount equal to the Fiscal Year 2004 Shortfall.

(b) The continuing appropriations provided for by this Section shall first be available in State fiscal year 1996.

(Source: P.A. 88-593, eff. 8-22-94.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted, and ordered printed.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 585, AS AMENDED, with reference to page and line numbers of Senate Amendment No. 1, on page 5, line 7, by replacing "General Revenue" with "State Pensions".

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Welch, **House Bill No. 585**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 47; Nays 7.

The following voted in the affirmative:

Althoff	Halvorson	Munoz	Sieben
Bomke	Harmon	Obama	Silverstein
Clayborne	Hendon	Peterson	Soden
Collins	Hunter	Petka	Sullivan, D.
Crotty	Jacobs	Radogno	Sullivan, J.
Cullerton	Jones, J.	Righter	Trotter
del Valle	Jones, W.	Ronen	Viverito
DeLeo	Lightford	Roskam	Walsh
Demuzio	Link	Rutherford	Watson
Forby	Maloney	Sandoval	Welch
Garrett	Martinez	Schoenberg	Mr. President
Haine	Meeks	Shadid	

The following voted in the negative:

Brady	Luechtefeld	Risinger	Winkel
Lauzen	Rauschenberger	Syverson	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Geo-Karis asked and obtained unanimous consent for the Journal to reflect her affirmative vote on **Senate Bill No. 585**.

HOUSE BILL RECALLED

On motion of Senator Ronen, **House Bill No. 810** was recalled from the order of third reading to the order of second reading.

Senator Ronen offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 810 by replacing everything after the enacting clause with the following:

"Section 1. Short title. This Act may be cited as the Illinois Unemployment Insurance Trust Fund Financing Act.

Section 2. Findings and Declaration of Policy. It is hereby found and declared that:

A. It is an essential governmental function to maintain funds in an amount sufficient to pay unemployment benefits when due;

B. At the time of the enactment of this Act, unemployment benefits payments are made from Illinois' account in the Unemployment Trust Fund of the United States Treasury and are funded by employer contributions;

C. At the time of the enactment of this Act, borrowing from the Federal government is the only option available to obtain sufficient funds to pay benefits when the balance in Illinois' account in the Unemployment Trust Fund of the United States Treasury is insufficient to make necessary payments;

D. Alternative methods of replenishing Illinois' account in the Unemployment Trust Fund of the United States Treasury may reduce the costs of providing unemployment benefits and employers' cost of doing business in the State;

E. It is in the State's best interests to authorize the issuance of bonds when appropriate for the purpose of continuing the unemployment insurance program at the lowest possible cost to the State and employers in Illinois; and

F. It is the public policy of this State to promote and encourage the full participation of female- and minority-owned firms with regard to bonds issued by State departments, agencies, and authorities. The Director shall, therefore, ensure that the process for procuring contracts with regard to Bonds includes outreach to female- and minority-owned firms and gives due consideration to those firms in the selection and approval of any contracts with any parties necessary to issue Bonds.

Section 3. Definitions. For purposes of this Act:

A. "Act" shall mean the Illinois Unemployment Insurance Trust Fund Financing Act.

B. "Benefits" shall have the meaning provided in the Unemployment Insurance Act.

C. "Bond" means any type of revenue obligation, including, without limitation, fixed rate, variable rate, auction rate or similar bond, note, certificate, or other instrument, including, without limitation, an interest rate exchange agreement, an interest rate lock agreement, a currency exchange agreement, a forward payment conversion agreement, an agreement to provide payments based on levels of or changes in interest rates or currency exchange rates, an agreement to exchange cash flows or a series of payments, an option, put, or call to hedge payment, currency, interest rate, or other exposure, payable from and secured by a pledge of Fund Building Receipts collected pursuant to the Unemployment Insurance Act, and all interest and other earnings upon such amounts held in the Master Bond Fund, to the extent provided in the proceedings authorizing the obligation.

D. "Bond Administrative Expenses" means expenses and fees incurred to administer and issue, upon a conversion of any of the Bonds from one mode to another and from taxable to tax-exempt, the Bonds issued pursuant to this Act, including fees for paying agents, trustees, financial advisors, underwriters, remarketing agents, attorneys and for other professional services necessary to ensure compliance with applicable state or federal law.

E. "Bond Obligations" means the principal of a Bond and any premium and interest on a Bond issued pursuant to this Act, together with any amount owed under a related Credit Agreement.

F. "Credit Agreement" means, without limitation, a loan agreement, a revolving credit agreement, an agreement establishing a line of credit, a letter of credit, notes, municipal bond insurance, standby bond purchase agreements, surety bonds, remarketing agreements and the like, by which the Department may

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borrow funds to pay or redeem or purchase and hold its bonds, agreements for the purchase or remarketing of bonds or any other agreement that enhances the marketability, security, or creditworthiness of a Bond issued under this Act.

1. Such Credit Agreement shall provide the following:

a. The choice of law for the obligations of a financial provider may be made for any state of these United States, but the law which shall apply to the Bonds shall be the law of the State of Illinois, and jurisdiction to enforce such Credit Agreement as against the Department shall be exclusively in the courts of the State of Illinois or in the applicable federal court having jurisdiction and located within the State of Illinois.

b. Any such Credit Agreement shall be fully enforceable as a valid and binding contract as and to the extent provided by applicable law.

2. Without limiting the foregoing, such Credit Agreement, may include any of the following:

a. Interest rates on the Bonds may vary from time to time depending upon criteria established by the Director, which may include, without limitation:

- (i) A variation in interest rates as may be necessary to cause the Bonds to be remarketed from time to time at a price equal to their principal amount plus any accrued interest;
- (ii) Rates set by auctions; or
- (iii) Rates set by formula.

b. A national banking association, bank, trust company, investment banker or other financial institution may be appointed to serve as a remarketing agent in that connection, and such remarketing agent may be delegated authority by the Department to determine interest rates in accordance with criteria established by the Department.

c. Alternative interest rates or provisions may apply during such times as the Bonds are held by the financial providers or similar persons or entities providing a Credit Agreement for those Bonds and, during such times, the interest on the Bonds may be deemed not exempt from income taxation under the Internal Revenue Code for purposes of State law, as contained in the Bond Authorization Act, relating to the permissible rate of interest to be borne thereon.

d. Fees may be paid to the financial providers or similar persons or entities providing a Credit Agreement, including all reasonably related costs, including therein costs of enforcement and litigation (all such fees and costs being financial provider payments) and financial provider payments may be paid, without limitation, from proceeds of the Bonds being the subject of such agreements, or from Bonds issued to refund such Bonds, provided that such financial provider payments shall be made subordinate to the payments on the Bonds.

e. The Bonds need not be held in physical form by the financial providers or similar persons or entities providing a Credit Agreement when providing funds to purchase or carry the Bonds from others but may be represented in uncertificated form in the Credit Agreement.

f. The debt or obligation of the Department represented by a Bond tendered for purchase to or otherwise made available to the Department thereupon acquired by either the Department or a financial provider shall not be deemed to be extinguished for purposes of State law until cancelled by the Department or its agent.

g. Such Credit Agreement may provide for acceleration of the principal amounts due on the Bonds.

G. "Department" means the Illinois Department of Employment Security.

H. "Director" means the Director of the Illinois Department of Employment Security.

I. "Fund Building Rates" are those rates imposed pursuant to Section 1506.3 of the Unemployment Insurance Act.

J. "Fund Building Receipts" shall have the meaning provided in the Unemployment Insurance Act.

K. "Master Bond Fund" shall mean, for any particular issuance of Bonds under this Act, the fund established for the deposit of Fund Building Receipts upon or prior to the issuance of Bonds under this Act, and during the time that any Bonds are outstanding under this Act and from which the payment of Bond Obligations and the related Bond Administrative Expenses incurred in connection with such Bonds shall be made. That portion of the Master Bond Fund containing the Required Fund Building Receipts Amount shall be irrevocably pledged to the timely payment of Bond Obligations and Bond Administrative Expenses due on any Bonds issued pursuant to this Act and any Credit Agreement entered in connection with the Bonds. The Master Bond Fund shall be held separate and apart from all other State funds. Moneys in the Master Bond Fund shall not be commingled with other State funds, but they shall be deposited as required by law and maintained in a separate account on the books of a

savings and loan association, bank or other qualified financial institution. All interest earnings on amounts within the Master Bond Fund shall accrue to the Master Bond Fund. The Master Bond Fund may include such funds and accounts as are necessary for the deposit of bond proceeds, Fund Building Receipts, payment of principal, interest, administrative expenses, costs of issuance, in the case of bonds which are exempt from Federal taxation, rebate payments, and such other funds and accounts which may be necessary for the implementation and administration of this Act. The Director shall be liable on her or his general official bond for the faithful performance of her or his duties as custodian of the Master Bond Fund. Such liability on her or his official bond shall exist in addition to the liability upon any separate bond given by her or him. All sums recovered for losses sustained by the Master Bond Fund shall be deposited into the Fund.

The Director shall report quarterly in writing to the Employment Security Advisory Board concerning the actual and anticipated deposits into and expenditures and transfers made from the Master Bond Fund.

L. "Required Fund Building Receipts Amount" means the aggregate amount of Fund Building Receipts required to be maintained in the Master Bond Fund as set forth in Section 4I of this Act.

Section 4. Authority to Issue Revenue Bonds.

A. The Department shall have the continuing power to borrow money for the purpose of carrying out the following:

1. To reduce or avoid the need to borrow or obtain a federal advance under Section 1201, et seq., of the Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law; or
2. To refinance a previous advance received by the Department with respect to the payment of Benefits; or
3. To refinance, purchase, redeem, refund, advance refund or defease (including, any combination of the foregoing) any outstanding Bonds issued pursuant to this Act; or
4. To fund a surplus in Illinois' account in the Unemployment Trust Fund of the United States Treasury.

Paragraphs 1, 2 and 4 are inoperative on and after January 1, 2010.

B. As evidence of the obligation of the Department to repay money borrowed for the purposes set forth in Section 4A above, the Department may issue and dispose of its interest bearing revenue Bonds and may also, from time-to-time, issue and dispose of its interest bearing revenue Bonds to purchase, redeem, refund, advance refund or defease (including, any combination of the foregoing) any Bonds at maturity or pursuant to redemption provisions or at any time before maturity. The Director, in consultation with the Department's Employment Security Advisory Board, shall have the power to direct that the Bonds be issued. Bonds may be issued in one or more series and under terms and conditions as needed in furtherance of the purposes of this Act. The Illinois Finance Authority shall provide any technical, legal, or administrative services if and when requested by the Director and the Employment Security Advisory Board with regard to the issuance of Bonds. Such Bonds shall be issued in the name of the State of Illinois for the benefit of the Department and shall be executed by the Director. In case any Director whose signature appears on any Bond ceases (after attaching his or her signature) to hold that office, her or his signature shall nevertheless be valid and effective for all purposes.

C. No Bonds shall be issued without the Director's written certification that, based upon a reasonable financial analysis, the issuance of Bonds is reasonably expected to:

- (i) Result in a savings to the State as compared to the cost of borrowing or obtaining an advance under Section 1201, et seq., Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law;
- (ii) Result in terms which are advantageous to the State through refunding, advance refunding or other similar restructuring of outstanding Bonds; or
- (iii) Allow the State to avoid an anticipated deficiency in the State's account in the Unemployment Trust Fund of the United States Treasury by funding a surplus in the State's account in the Unemployment Trust Fund of the United States Treasury.

D. All such Bonds shall be payable from Fund Building Receipts. Bonds may also be paid from (i) to the extent allowable by law, from monies in the State's account in the Unemployment Trust Fund of the United States Treasury; and (ii) to the extent allowable by law, a federal advance under Section 1201, et seq., of the Social Security Act (42 U.S.C. Section 1321); and (iii) proceeds of Bonds and receipts from related credit and exchange agreements to the extent allowed by this Act and applicable legal requirements.

E. The maximum principal amount of the Bonds, when combined with the outstanding principal of all other Bonds issued pursuant to this Act, shall not at any time exceed \$1,400,000,000, excluding all of the

outstanding principal of any other Bonds issued pursuant to this Act for which payment has been irrevocably provided by refunding or other manner of defeasance. It is the intent of this Act that the outstanding Bond authorization limits provided for in this Section 4E shall be revolving in nature, such that the amount of Bonds outstanding that are not refunded or otherwise defeased shall be included in determining the maximum amount of Bonds authorized to be issued pursuant to the Act.

F. Such Bonds and refunding Bonds issued pursuant to this Act may bear such date or dates, may mature at such time or times not exceeding 10 years from their respective dates of issuance, and may bear interest at such rate or rates not exceeding the maximum rate authorized by the Bond Authorization Act, as amended and in effect at the time of the issuance of the Bonds.

G. The Department may enter into a Credit Agreement pertaining to the issuance of the Bonds, upon terms which are not inconsistent with this Act and any other laws, provided that the term of such Credit Agreement shall not exceed the term of the Bonds, plus any time period necessary to cure any defaults under such Credit Agreement.

H. Interest earnings paid to holders of the Bonds shall not be exempt from income taxes imposed by the State.

I. While any Bond Obligations are outstanding or anticipated to come due as a result of Bonds expected to be issued in either or both of the 2 immediately succeeding calendar quarters, the Department shall collect and deposit Fund Building Receipts into the Master Bond Fund in an amount necessary to satisfy the Required Fund Building Receipts Amount prior to expending Fund Building Receipts for any other purpose. The Required Fund Building Receipts Amount shall be that amount necessary to ensure the marketability of the Bonds, which shall be specified in the Bond Sale Order executed by the Director in connection with the issuance of the Bonds.

J. Holders of the Bonds shall have a first and priority claim on all Fund Building Receipts in the Master Bond Fund in parity with all other holders of the Bonds, provided that such claim may be subordinated to the provider of any Credit Agreement for any of the Bonds.

K. To the extent that Fund Building Receipts in the Master Bond Fund are not otherwise needed to satisfy the requirements of this Act and the instruments authorizing the issuance of the Bonds, such monies shall be used by the Department, in such amounts as determined by the Director to do either or both of the following:

1. To purchase, refinance, redeem, refund, advance refund or defease (or any combination of the foregoing) outstanding Bonds, to the extent such action is legally available and does not impair the tax exempt status of any of the Bonds which are, in fact, exempt from Federal income taxation; or
2. As a deposit in the State's account in the Unemployment Trust Fund of the United States Treasury.

L. The Director shall determine the method of sale, type of bond, bond form, redemption provisions and other terms of the Bonds that, in the Director's judgment, best achieve the purposes of this Act and effect the borrowing at the lowest practicable cost, provided that those determinations are not inconsistent with this Act or other applicable legal requirements. Those determinations shall be set forth in a document entitled "Bond Sale Order" acceptable, in form and substance, to the attorney or attorneys acting as bond counsel for the Bonds in connection with the rendering of opinions necessary for the issuance of the Bonds and executed by the Director.

Section 5. Bond Proceeds.

A. The proceeds of any Bonds issued pursuant to this Act, including investment income thereon, shall be held in trust in the Master Bond Fund for the following purpose and in such amounts as determined by the Director:

1. Paying the principal and interest on any outstanding federal advance received by the Department under Section 1201, et seq., of the Social Security Act (42 U.S.C. Section 1321), as amended, or any similar federal law;
2. Being deposited into the State's account in the Unemployment Trust Fund of the United States Treasury for the purpose of: (i) avoiding anticipated deficiencies in that account or (ii) funding a surplus in that account, when doing either (i) or (ii) will result in a savings to the State or employers or both;
3. Paying the costs of issuing or refinancing any such Bonds;
4. Providing an appropriate reserve for any such Bonds to the extent that the Department determines that an appropriate reserve is warranted; and
5. Paying capitalized interest on the Bonds for the period determined necessary by the Department, not to exceed 2 years.

B. Excess Bond proceeds remaining available after the payments and deposits required pursuant to Section 5A1 through 5A5 above have been made, may be used in the following manner as determined by the Director:

1. To purchase, redeem or defease outstanding Bonds, to the extent such action is legally available and does not impair the tax-exempt status of any of the Bonds which are, in fact, tax-exempt; or
2. To pay any scheduled interest payment or payments due on any outstanding Bonds; or
3. Deposited in the State's account in the Unemployment Trust Fund of the United States Treasury.

Section 6. Bonds Not A Pledge of the State.

A. Any Bonds issued under this Act, and any related Credit Agreement, are not a pledge of the faith and credit or moral obligation of the State or any State agency or political subdivision of the State. All Bonds, Bond Obligations and payment obligations deriving from any Credit Agreement are payable solely as provided in Section 4D.

B. Any Bonds and any related Credit Agreement issued under this Act must contain a conspicuous statement to the effect that:

1. Neither the State, nor any State agency, political corporation, or political subdivision of the State, is obligated to pay the principal of or interest on the Bonds except as provided by this Act; and
2. Neither the faith and credit of the State or any State agency, political corporation, or political subdivision of the State, nor the moral obligation of any of them, is pledged to the payment of the principal of or interest on the Bonds.

Section 7. State Not to Impair Bond Obligations. While Bonds under this Act are outstanding, the State irrevocably pledges and covenants that it shall not:

A. Take action to limit or restrict the rights of the Department to fulfill its responsibilities to pay Bond Obligations, Bond Administrative Expenses or otherwise comply with instruments entered by the Department pertaining to the issuance of the Bonds;

B. In any way impair the rights and remedies of the holders of the Bonds until the Bonds are fully discharged; or

C. Reduce:

1. The Fund Building Rates below the levels in existence effective January 1, 2004;
2. The maximum amount includable as wages pursuant to Section 235 of the Unemployment Insurance Act below the levels in existence effective January 1, 2004; and
3. The Solvency Adjustments imposed pursuant to Section 1400.1 of the Unemployment Insurance Act below the levels in existence effective January 1, 2004.

Section 8. Continuing appropriation. This Act shall constitute an irrevocable and continuing appropriation of all amounts necessary in respect to use of Fund Building Receipts and Bond Proceeds for purposes specified in this Act, including, without limitation, for the provision for payment of principal and interest on the Bonds and other amounts due in connection with the issuance of the Bonds pursuant to this Act, to the fullest extent such appropriation is required.

Section 9. Director's Supplemental Authority. The Director, on behalf of the Department, is authorized to enter into the covenants and agreements required by this Act, make any determinations, calculations, rules or other promulgations required by this Act and engage or hire the necessary attorneys, financial advisors, consultants, verification agents, trustees, underwriters, remarketing agents and other professionals necessary to carry out the purposes and intent of this Act, unless otherwise expressly specified or required under this Act.

Section 10. No Personal Liability. No director, officer or employee of the Department or the State shall be personally liable as a result of exercising the rights and responsibilities granted under this Act.

Section 11. Omnibus Bonds Acts. With respect to instruments for the payment of money issued under this Act, it is and always has been the intention of the General Assembly (i) that the Omnibus Bond Acts are and always have been supplementary grants of power to issue instruments in accordance with the Omnibus Bond Acts, regardless of any provision of this Act that may appear to be or to have been more restrictive than those Omnibus Bond Acts, (ii) that the provisions of this Act are not a limitation on the

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supplementary authority granted by the Omnibus Bond Acts, and (iii) that instruments issued under this Act within the supplementary authority granted by the Omnibus Bond Acts are not invalid because of any provision of this Act that may appear to be or to have been more restrictive than those Omnibus Bond Acts.

Section 12. Mandatory Provisions. The provisions of this Act are mandatory and not directory.

Section 13. Severability and inseverability. If any provision of this Act or its application to any person or circumstance is held invalid, the invalidity of that provision or application does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, except that this Act is inseverable to the extent that if all or any substantial and material part of Sections 1 through 12 are held invalid, then the entire Act (including both new and amendatory provisions) is invalid.

Section 13. 1. The Civil Administrative Code of Illinois is amended by changing Section 5-540 as follows:

(20 ILCS 5/5-540) (was 20 ILCS 5/6.28 and 5/7.01)

Sec. 5-540. In the Department of Employment Security. An Employment Security Advisory Board, composed of 12 ~~9~~ persons. Of the 12 ~~9~~ members of the Employment Security Advisory Board, 4 ~~3~~ members shall be representative citizens chosen from the employee class, 4 ~~3~~ members shall be representative citizens chosen from the employing class, and 4 ~~3~~ members shall be representative citizens not identified with either the employing class or the employee class.

(Source: P.A. 90-372, eff. 7-1-98; 91-239, eff. 1-1-00.)

Section 13. 2. The Illinois Income Tax Act is amended by changing Section 701 as follows:

(35 ILCS 5/701) (from Ch. 120, par. 7-701)

Sec. 701. Requirement and Amount of Withholding.

(a) In General. Every employer maintaining an office or transacting business within this State and required under the provisions of the Internal Revenue Code to withhold a tax on:

(1) compensation paid in this State (as determined under Section 304(a)(2)(B) to an individual; or

(2) payments described in subsection (b) shall deduct and withhold from such compensation for each payroll period (as defined in Section 3401 of the Internal Revenue Code) an amount equal to the amount by which such individual's compensation exceeds the proportionate part of this withholding exemption (computed as provided in Section 702) attributable to the payroll period for which such compensation is payable multiplied by a percentage equal to the percentage tax rate for individuals provided in subsection (b) of Section 201.

(b) Payment to Residents. Any payment (including compensation) to a resident by a payor maintaining an office or transacting business within this State (including any agency, officer, or employee of this State or of any political subdivision of this State) and on which withholding of tax is required under the provisions of the Internal Revenue Code shall be deemed to be compensation paid in this State by an employer to an employee for the purposes of Article 7 and Section 601(b)(1) to the extent such payment is included in the recipient's base income and not subjected to withholding by another state. Notwithstanding any other provision to the contrary, no amount shall be withheld from unemployment insurance benefit payments made to an individual pursuant to the Unemployment Insurance Act unless the individual has voluntarily elected the withholding pursuant to rules promulgated by the Director of Employment Security.

(c) Special Definitions. Withholding shall be considered required under the provisions of the Internal Revenue Code to the extent the Internal Revenue Code either requires withholding or allows for voluntary withholding the payor and recipient have entered into such a voluntary withholding agreement. For the purposes of Article 7 and Section 1002(c) the term "employer" includes any payor who is required to withhold tax pursuant to this Section.

(d) Reciprocal Exemption. The Director may enter into an agreement with the taxing authorities of any state which imposes a tax on or measured by income to provide that compensation paid in such state to residents of this State shall be exempt from withholding of such tax; in such case, any compensation paid in this State to residents of such state shall be exempt from withholding. All reciprocal agreements shall be subject to the requirements of Section 2505-575 of the Department of Revenue Law (20 ILCS 2505/2505-575).

(e) Notwithstanding subsection (a)(2) of this Section, no withholding is required on payments for

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which withholding is required under Section 3405 or 3406 of the Internal Revenue Code of 1954. (Source: P.A. 91-239, eff. 1-1-00; 92-846, eff. 8-23-02.)

Section 13. 3. The Unemployment Insurance Act is amended by changing Sections 235, 237, 401, 601, 1401, 1502.1, 1505, 1506.3, 1507, and 2100 and adding Sections 240.1, 1400.1, 1511.1, and 2106.1 as follows:

(820 ILCS 405/235) (from Ch. 48, par. 345)

Sec. 235. The term "wages" does not include:

A. That part of the remuneration which, after remuneration equal to \$6,000 with respect to employment has been paid to an individual by an employer during any calendar year after 1977 and before 1980, is paid to such individual by such employer during such calendar year; and that part of the remuneration which, after remuneration equal to \$6,500 with respect to employment has been paid to an individual by an employer during each calendar year 1980 and 1981, is paid to such individual by such employer during that calendar year; and that part of the remuneration which, after remuneration equal to \$7,000 with respect to employment has been paid to an individual by an employer during the calendar year 1982 is paid to such individual by such employer during that calendar year.

With respect to the first calendar quarter of 1983, the term "wages" shall include only the remuneration paid to an individual by an employer during such quarter with respect to employment which does not exceed \$7,000. With respect to the three calendar quarters, beginning April 1, 1983, the term "wages" shall include only the remuneration paid to an individual by an employer during such period with respect to employment which when added to the "wages" (as defined in the preceding sentence) paid to such individual by such employer during the first calendar quarter of 1983, does not exceed \$8,000.

With respect to the calendar year 1984, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed \$8,000; with respect to calendar years 1985, 1986 and 1987, the term "wages" shall include only the remuneration paid to such individual by such employer during that calendar year with respect to employment which does not exceed \$8,500.

With respect to the calendar years 1988 through 2003 and calendar year 2005 and each calendar year thereafter, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed \$9,000.

With respect to the calendar year 2004, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed ~~\$9,800~~ ~~\$10,000~~. With respect to the calendar years 2005 through 2009, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed the following amounts: \$10,500 with respect to the calendar year 2005; \$11,000 with respect to the calendar year 2006; \$11,500 with respect to the calendar year 2007; \$12,000 with respect to the calendar year 2008; and \$12,300 with respect to the calendar year 2009.

With respect to the calendar year 2010 and each calendar year thereafter, the term "wages" shall include only the remuneration paid to an individual by an employer during that period with respect to employment which does not exceed the sum of the wage base adjustment applicable to that year pursuant to Section 1400.1, plus the maximum amount includable as "wages" pursuant to this subsection with respect to the immediately preceding calendar year. Notwithstanding any provision to the contrary, the maximum amount includable as "wages" pursuant to this Section shall not be less than \$12,300 or greater than \$12,960 with respect to any calendar year after calendar year 2009.

The remuneration paid to an individual by an employer with respect to employment in another State or States, upon which contributions were required of such employer under an unemployment compensation law of such other State or States, shall be included as a part of the remuneration ~~equal to \$6,000, \$6,500, \$7,000, \$8,000, \$8,500, \$9,000, or \$10,000, as the case may be,~~ herein referred to. For the purposes of this subsection, any employing unit which succeeds to the organization, trade, or business, or to substantially all of the assets of another employing unit, or to the organization, trade, or business, or to substantially all of the assets of a distinct severable portion of another employing unit, shall be treated as a single unit with its predecessor for the calendar year in which such succession occurs, and any employing unit which is owned or controlled by the same interests which own or control another employing unit shall be treated as a single unit with the unit so owned or controlled by such interests for any calendar year throughout which such ownership or control exists. This subsection applies only to Sections 1400, 1405A, and 1500.

B. The amount of any payment (including any amount paid by an employer for insurance or annuities, or into a fund, to provide for any such payment), made to, or on behalf of, an individual or any of his

dependents under a plan or system established by an employer which makes provision generally for individuals performing services for him (or for such individuals generally and their dependents) or for a class or classes of such individuals (or for a class or classes of such individuals and their dependents), on account of (1) sickness or accident disability (except those sickness or accident disability payments which would be includable as "wages" in Section 3306(b)(2)(A) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985, such includable payments to be attributable in such manner as provided by Section 3306(b) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985), or (2) medical or hospitalization expenses in connection with sickness or accident disability, or (3) death.

C. Any payment made to, or on behalf of, an employee or his beneficiary which would be excluded from "wages" by subparagraph (A), (B), (C), (D), (E), (F) or (G), of Section 3306(b)(5) of the Federal Internal Revenue Code of 1954, in effect on January 1, 1985.

D. The amount of any payment on account of sickness or accident disability, or medical or hospitalization expenses in connection with sickness or accident disability, made by an employer to, or on behalf of, an individual performing services for him after the expiration of six calendar months following the last calendar month in which the individual performed services for such employer.

E. Remuneration paid in any medium other than cash by an employing unit to an individual for service in agricultural labor as defined in Section 214.

F. The amount of any supplemental payment made by an employer to an individual performing services for him, other than remuneration for services performed, under a shared work plan approved by the Director pursuant to Section 407.1.

(Source: P.A. 90-554, eff. 12-12-97; 91-342, eff. 7-29-99.)

(820 ILCS 405/237) (from Ch. 48, par. 347)

~~Sec. 237. A. "Base period" means (1) the four consecutive calendar quarters ended on the preceding December 31, for benefit years beginning in May, June, or July; (2) the four consecutive calendar quarters ended on the preceding March 31, for benefit years beginning in August, September, or October; (3) the four consecutive calendar quarters ended on the preceding June 30, for benefit years beginning in November, December, or January; and (4) the four consecutive calendar quarters ended on the preceding September 30, for benefit years beginning in February, March, or April. This paragraph shall apply to benefit years beginning prior to November 1, 1981.~~

~~For each benefit year beginning on or after November 1, 1981, "base period" means the first four of the last five completed calendar quarters immediately preceding the benefit year. Further, any wages which had previously been used to establish a valid claim pursuant to Section 242 and with respect to which benefits have been paid shall not be included in the base period provided for in this subsection.~~

~~B. Notwithstanding subsection A the foregoing paragraph, with respect to any benefit year beginning on or after January 1, 1988, an individual, who has been awarded temporary total disability under any workers' compensation act or any occupational diseases act and does not qualify for the maximum weekly benefit amount under Section 401 because he was unemployed and awarded temporary total disability during the base period determined in accordance with subsection A the preceding paragraph, shall have his weekly benefit amount, if it is greater than the weekly benefit amount determined in accordance with subsection A the preceding paragraph, determined by the base period of a benefit year which began on the date of the beginning of the first week for which he was awarded temporary total disability under any workers' compensation act or occupational diseases act, provided, however, that such base period shall not begin more than one year prior to the individual's base period as determined under subsection A the preceding paragraph. Further, any wages which had previously been used to establish a valid claim pursuant to Section 242 and with respect to which benefits have been paid shall not be included in the base period provided for in this subsection paragraph.~~

~~C. With respect to an individual who is ineligible to receive benefits under this Act by reason of the provisions of Section 500E during the base periods determined in accordance with subsections A and B, "base period" means the last 4 completed calendar quarters immediately preceding the benefit year. This subsection shall not apply to establish any benefit year beginning prior to January 1, 2008.~~

~~D. Notwithstanding the foregoing provisions of this Section, "base period" means the base period as defined in the unemployment compensation law of any State under which benefits are payable to an individual on the basis of a combination of his wages pursuant to an arrangement described in Section 2700 F.~~

(Source: P.A. 85-956; 85-1009.)

(820 ILCS 405/240.1 new)

Sec. 240.1. "Fund Building Receipts" means amounts directed for deposit into the Master Bond Fund pursuant to Section 1506.3.

(820 ILCS 405/401) (from Ch. 48, par. 401)

Sec. 401. Weekly Benefit Amount - Dependents' Allowances.

A. With respect to any week beginning prior to April 24, 1983, an individual's weekly benefit amount shall be an amount equal to the weekly benefit amount as defined in this Act as in effect on November 30, 1982.

B. 1. With respect to any week beginning on or after April 24, 1983 and before January 3, 1988, an individual's weekly benefit amount shall be 48% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; provided, however, that the weekly benefit amount cannot exceed the maximum weekly benefit amount, and cannot be less than 15% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar. However, the weekly benefit amount for an individual who has established a benefit year beginning before April 24, 1983, shall be determined, for weeks beginning on or after April 24, 1983 claimed with respect to that benefit year, as provided under this Act as in effect on November 30, 1982. With respect to any week beginning on or after January 3, 1988 and before January 1, 1993, an individual's weekly benefit amount shall be 49% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; provided, however, that the weekly benefit amount cannot exceed the maximum weekly benefit amount, and cannot be less than \$51. With respect to any week beginning on or after January 3, 1993 and during a benefit year beginning before January 4, 2004, an individual's weekly benefit amount shall be 49.5% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; provided, however, that the weekly benefit amount cannot exceed the maximum weekly benefit amount and cannot be less than \$51. With respect to any benefit year beginning on or after January 4, 2004 and before January 6, 2008, an individual's weekly benefit amount shall be 48% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; provided, however, that the weekly benefit amount cannot exceed the maximum weekly benefit amount and cannot be less than \$51. With respect to any benefit year beginning on or after January 6, 2008, an individual's weekly benefit amount shall be 47% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; provided, however, that the weekly benefit amount cannot exceed the maximum weekly benefit amount and cannot be less than \$51.

2. For the purposes of this subsection:

With respect to any week beginning on or after April 24, 1983, an individual's "prior average weekly wage" means the total wages for insured work paid to that individual during the 2 calendar quarters of his base period in which such total wages were highest, divided by 26. If the quotient is not already a multiple of one dollar, it shall be rounded to the nearest dollar; however if the quotient is equally near 2 multiples of one dollar, it shall be rounded to the higher multiple of one dollar.

"Determination date" means June 1, 1982, December 1, 1982 and December 1 of each succeeding calendar year thereafter. However, if as of June 30, 1982, or any June 30 thereafter, the net amount standing to the credit of this State's account in the unemployment trust fund (less all outstanding advances to that account, including advances pursuant to Title XII of the federal Social Security Act) is greater than \$100,000,000, "determination date" shall mean December 1 of that year and June 1 of the succeeding year. Notwithstanding the preceding sentence, for the purposes of this Act only, there shall be no June 1 determination date in any year after 1986.

"Determination period" means, with respect to each June 1 determination date, the 12 consecutive calendar months ending on the immediately preceding December 31 and, with respect to each December 1 determination date, the 12 consecutive calendar months ending on the immediately preceding June 30.

"Benefit period" means the 12 consecutive calendar month period beginning on the first day of the first calendar month immediately following a determination date, except that, with respect to any calendar year in which there is a June 1 determination date, "benefit period" shall mean the 6 consecutive calendar month period beginning on the first day of the first calendar month immediately following the preceding December 1 determination date and the 6 consecutive calendar month period beginning on the first day of the first calendar month immediately following the June 1 determination date. Notwithstanding the foregoing sentence, the 6 calendar months beginning January 1, 1982 and ending June 30, 1982 shall be deemed a benefit period with respect to which the determination date shall be June 1, 1981.

"Gross wages" means all the wages paid to individuals during the determination period immediately preceding a determination date for insured work, and reported to the Director by employers prior to the first day of the third calendar month preceding that date.

"Covered employment" for any calendar month means the total number of individuals, as determined by the Director, engaged in insured work at mid-month.

[November 20, 2003]

"Average monthly covered employment" means one-twelfth of the sum of the covered employment for the 12 months of a determination period.

"Statewide average annual wage" means the quotient, obtained by dividing gross wages by average monthly covered employment for the same determination period, rounded (if not already a multiple of one cent) to the nearest cent.

"Statewide average weekly wage" means the quotient, obtained by dividing the statewide average annual wage by 52, rounded (if not already a multiple of one cent) to the nearest cent. Notwithstanding any provisions of this Section to the contrary, the statewide average weekly wage for the benefit period beginning July 1, 1982 and ending December 31, 1982 shall be the statewide average weekly wage in effect for the immediately preceding benefit period plus one-half of the result obtained by subtracting the statewide average weekly wage for the immediately preceding benefit period from the statewide average weekly wage for the benefit period beginning July 1, 1982 and ending December 31, 1982 as such statewide average weekly wage would have been determined but for the provisions of this paragraph. Notwithstanding any provisions of this Section to the contrary, the statewide average weekly wage for the benefit period beginning April 24, 1983 and ending January 31, 1984 shall be \$321 and for the benefit period beginning February 1, 1984 and ending December 31, 1986 shall be \$335, and for the benefit period beginning January 1, 1987, and ending December 31, 1987, shall be \$350, except that for an individual who has established a benefit year beginning before April 24, 1983, the statewide average weekly wage used in determining benefits, for any week beginning on or after April 24, 1983, claimed with respect to that benefit year, shall be \$334.80, except that, for the purpose of determining the minimum weekly benefit amount under subsection B(1) for the benefit period beginning January 1, 1987, and ending December 31, 1987, the statewide average weekly wage shall be \$335; for the benefit periods January 1, 1988 through December 31, 1988, January 1, 1989 through December 31, 1989, and January 1, 1990 through December 31, 1990, the statewide average weekly wage shall be \$359, \$381, and \$406, respectively. Notwithstanding the preceding sentences of this paragraph, for the benefit period of calendar year 1991, the statewide average weekly wage shall be \$406 plus (or minus) an amount equal to the percentage change in the statewide average weekly wage, as computed in accordance with the preceding sentences of this paragraph, between the benefit periods of calendar years 1989 and 1990, multiplied by \$406; and, for the benefit periods of calendar years 1992 through 2003 and calendar year 2005 and each calendar year thereafter, the statewide average weekly wage, shall be the statewide average weekly wage, as determined in accordance with this sentence, for the immediately preceding benefit period plus (or minus) an amount equal to the percentage change in the statewide average weekly wage, as computed in accordance with the preceding sentences of this paragraph, between the 2 immediately preceding benefit periods, multiplied by the statewide average weekly wage, as determined in accordance with this sentence, for the immediately preceding benefit period. ~~For the benefit period of 2004, the statewide average weekly wage shall be \$600. Provided however, that for any benefit period after December 31, 1990, if 2 of the following 3 factors occur, then the statewide average weekly wage shall be the statewide average weekly wage in effect for the immediately preceding benefit period: (a) the average contribution rate for all employers in this State for the calendar year 2 years prior to the benefit period, as a ratio of total contribution payments (including payments in lieu of contributions) to total wages reported by employers in this State for that same period is 0.2% greater than the national average of this ratio, the foregoing to be determined in accordance with rules promulgated by the Director; (b) the balance in this State's account in the unemployment trust fund, as of March 31 of the prior calendar year, is less than \$250,000,000; or (c) the number of first payments of initial claims, as determined in accordance with rules promulgated by the Director, for the one year period ending on June 30 of the prior year, has increased more than 25% over the average number of such payments during the 5-year period ending that same June 30; and provided further that if (a), (b) and (c) occur, then the statewide average weekly wage, as determined in accordance with the preceding sentence, shall be 10% less than it would have been but for these provisions. If the reduced amount, computed in accordance with the preceding sentence, is not already a multiple of one dollar, it shall be rounded to the nearest dollar. The 10% reduction in the statewide average weekly wage in the preceding sentence shall not be in effect for more than 2 benefit periods of any 5 consecutive benefit periods. This 10% reduction shall not be cumulative from year to year. Neither the freeze nor the reduction shall be considered in the determination of subsequent years' calculations of statewide average weekly wage. However, for purposes of the Workers' Compensation Act, the statewide average weekly wage will be computed using June 1 and December 1 determination dates of each calendar year and such determination shall not be subject to the limitation of \$321, \$335, \$350, \$359, \$381, \$406 or the statewide average weekly wage as computed in accordance with the preceding sentence 7 sentences of this paragraph.~~

With respect to any week beginning on or after April 24, 1983 and before January 3, 1988, "maximum

[November 20, 2003]

weekly benefit amount" means 48% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the nearest dollar, provided however, that the maximum weekly benefit amount for an individual who has established a benefit year beginning before April 24, 1983, shall be determined, for weeks beginning on or after April 24, 1983 claimed with respect to that benefit year, as provided under this Act as amended and in effect on November 30, 1982, except that the statewide average weekly wage used in such determination shall be \$334.80.

With respect to any week beginning after January 2, 1988 and before January 1, 1993, "maximum weekly benefit amount" with respect to each week beginning within a benefit period means 49% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any week beginning on or after January 3, 1993 and during a benefit year beginning before January 4, 2004, "maximum weekly benefit amount" with respect to each week beginning within a benefit period means 49.5% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any benefit year beginning on or after January 4, 2004 and before January 6, 2008, "maximum weekly benefit amount" with respect to each week beginning within a benefit period means 48% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any benefit year beginning on or after January 6, 2008, "maximum weekly benefit amount" with respect to each week beginning within a benefit period means 47% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

C. With respect to any week beginning on or after April 24, 1983 and before January 3, 1988, an individual to whom benefits are payable with respect to any week shall, in addition to such benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 7% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the higher dollar; provided, that the total amount payable to the individual with respect to a week shall not exceed 55% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the nearest dollar; and in the case of an individual with a dependent child or dependent children, 14.4% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the higher dollar; provided, that the total amount payable to the individual with respect to a week shall not exceed 62.4% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar with respect to the benefit period beginning January 1, 1987 and ending December 31, 1987, and otherwise to the nearest dollar. However, for an individual with a nonworking spouse or with a dependent child or children who has established a benefit year beginning before April 24, 1983, the amount of additional benefits payable on account of the nonworking spouse or dependent child or children shall be determined, for weeks beginning on or after April 24, 1983 claimed with respect to that benefit year, as provided under this Act as in effect on November 30, 1982, except that the statewide average weekly wage used in such determination shall be \$334.80.

With respect to any week beginning on or after January 2, 1988 and before January 1, 1991 and any week beginning on or after January 1, 1992, and before January 1, 1993, an individual to whom benefits are payable with respect to any week shall, in addition to those benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 8% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided, that the total amount payable to the individual with respect to a week shall not exceed 57% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; and in the case of an individual with a dependent child or dependent children, 15% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided that the total amount payable to the individual with respect to a week shall not exceed 64% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any week beginning on or after January 1, 1991 and before January 1, 1992, an individual to whom benefits are payable with respect to any week shall, in addition to the benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 8.3% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided, that the total amount payable to the individual with respect to a week shall not exceed 57.3% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; and in the case of an individual with a dependent child or dependent children, 15.3% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided that the total amount payable to the individual with respect to a week shall not exceed 64.3% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the

next higher dollar.

With respect to any week beginning on or after January 3, 1993, during a benefit year beginning before January 4, 2004, an individual to whom benefits are payable with respect to any week shall, in addition to those benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 9% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided, that the total amount payable to the individual with respect to a week shall not exceed 58.5% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; and in the case of an individual with a dependent child or dependent children, 16% of his prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided that the total amount payable to the individual with respect to a week shall not exceed 65.5% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any benefit year beginning on or after January 4, 2004 and before January 6, 2008, an individual to whom benefits are payable with respect to any week shall, in addition to those benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 9% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided, that the total amount payable to the individual with respect to a week shall not exceed 57% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; and in the case of an individual with a dependent child or dependent children, 17.2% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided that the total amount payable to the individual with respect to a week shall not exceed 65.2% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar.

With respect to any benefit year beginning on or after January 6, 2008, an individual to whom benefits are payable with respect to any week shall, in addition to those benefits, be paid, with respect to such week, as follows: in the case of an individual with a nonworking spouse, 9% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided, that the total amount payable to the individual with respect to a week shall not exceed 56% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar; and with respect to any benefit year beginning before January 1, 2010, in the case of an individual with a dependent child or dependent children, 18.2% of his or her prior average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar, provided that the total amount payable to the individual with respect to a week shall not exceed 65.2% of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar. The additional amount paid pursuant to this subsection in the case of an individual with a dependent child or dependent children shall be referred to as the "dependent child allowance". With respect to each benefit year beginning in a calendar year after calendar year 2009, the percentage rate used to calculate the dependent child allowance shall be the sum of the allowance adjustment applicable pursuant to Section 1400.1 to the calendar year in which the benefit year begins, plus the percentage rate used to calculate the dependent child allowance with respect to each benefit year beginning in the immediately preceding calendar year, provided that the total amount payable to the individual with respect to a week beginning in such benefit year shall not exceed the product of the statewide average weekly wage, rounded (if not already a multiple of one dollar) to the next higher dollar and the sum of 47% plus the percentage rate used to calculate the individual's dependent child allowance. Notwithstanding any provision to the contrary, the percentage rate used to calculate the dependent child allowance with respect to any benefit year beginning on or after January 1, 2010, shall not be less than 17.3% or greater than 18.2%.

For the purposes of this subsection:

"Dependent" means a child or a nonworking spouse.

"Child" means a natural child, stepchild, or adopted child of an individual claiming benefits under this Act or a child who is in the custody of any such individual by court order, for whom the individual is supplying and, for at least 90 consecutive days (or for the duration of the parental relationship if it has existed for less than 90 days) immediately preceding any week with respect to which the individual has filed a claim, has supplied more than one-half the cost of support, or has supplied at least 1/4 of the cost of support if the individual and the other parent, together, are supplying and, during the aforesaid period, have supplied more than one-half the cost of support, and are, and were during the aforesaid period, members of the same household; and who, on the first day of such week (a) is under 18 years of age, or (b) is, and has been during the immediately preceding 90 days, unable to work because of illness or other disability: provided, that no person who has been determined to be a child of an individual who has been allowed benefits with respect to a week in the individual's benefit year shall be deemed to be a child of

the other parent, and no other person shall be determined to be a child of such other parent, during the remainder of that benefit year.

"Nonworking spouse" means the lawful husband or wife of an individual claiming benefits under this Act, for whom more than one-half the cost of support has been supplied by the individual for at least 90 consecutive days (or for the duration of the marital relationship if it has existed for less than 90 days) immediately preceding any week with respect to which the individual has filed a claim, but only if the nonworking spouse is currently ineligible to receive benefits under this Act by reason of the provisions of Section 500E.

An individual who was obligated by law to provide for the support of a child or of a nonworking spouse for the aforesaid period of 90 consecutive days, but was prevented by illness or injury from doing so, shall be deemed to have provided more than one-half the cost of supporting the child or nonworking spouse for that period.

(Source: P.A. 90-554, eff. 12-12-97; 91-342, eff. 7-29-99.)

(820 ILCS 405/601) (from Ch. 48, par. 431)

Sec. 601. Voluntary leaving. A. An individual shall be ineligible for benefits for the week in which he has left work voluntarily without good cause attributable to the employing unit and, thereafter, until he has become reemployed and has had earnings equal to or in excess of his current weekly benefit amount in each of four calendar weeks which are either for services in employment, or have been or will be reported pursuant to the provisions of the Federal Insurance Contributions Act by each employing unit for which such services are performed and which submits a statement certifying to that fact.

B. The provisions of this Section shall not apply to an individual who has left work voluntarily:

1. Because he is deemed physically unable to perform his work by a licensed and practicing physician, or has left work voluntarily upon the advice of a licensed and practicing physician that assistance is necessary for the purpose of caring for his spouse, child, or parent who is in poor physical health and such assistance will not allow him to perform the usual and customary duties of his employment, and he has notified the employing unit of the reasons for his absence;

2. To accept other bona fide work and, after such acceptance, the individual is either not unemployed in each of 2 weeks, or earns remuneration for such work equal to at least twice his current weekly benefit amount;

3. In lieu of accepting a transfer to other work offered to the individual by the employing unit under the terms of a collective bargaining agreement or pursuant to an established employer plan, program, or policy, if the acceptance of such other work by the individual would require the separation from that work of another individual currently performing it;

4. Solely because of the sexual harassment of the individual by another employee. Sexual harassment means (1) unwelcome sexual advances, requests for sexual favors, sexually motivated physical contact or other conduct or communication which is made a term or condition of the employment or (2) the employee's submission to or rejection of such conduct or communication which is the basis for decisions affecting employment, or (3) when such conduct or communication has the purpose or effect of substantially interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment and the employer knows or should know of the existence of the harassment and fails to take timely and appropriate action;

5. Which he had accepted after separation from other work, and the work which he left voluntarily would be deemed unsuitable under the provisions of Section 603; -

6. (a) Because the individual left work due to circumstances resulting from the individual being a victim of domestic violence as defined in Section 103 of the Illinois Domestic Violence Act of 1986; and provided, such individual has made reasonable efforts to preserve the employment.

For the purposes of this paragraph 6, the individual shall be treated as being a victim of domestic violence if the individual provides the following:

(i) written notice to the employing unit of the reason for the individual's voluntarily leaving; and

(ii) to the Department provides:

(A) an order of protection or other documentation of equitable relief issued by a court of competent jurisdiction; or

(B) a police report or criminal charges documenting the domestic violence; or

(C) medical documentation of the domestic violence; or

(D) evidence of domestic violence from a counselor, social worker, health worker or domestic violence shelter worker.

(b) If the individual does not meet the provisions of subparagraph (a), the individual shall be held to have voluntarily terminated employment for the purpose of determining the individual's eligibility for benefits pursuant to subsection A.

(c) Notwithstanding any other provision to the contrary, evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall not be disclosed by the Department unless consent for disclosure is given by the individual.

(Source: P.A. 83-197.)

(820 ILCS 405/1400.1 new)

Sec. 1400.1. Solvency Adjustments. As used in this Section, "prior year's trust fund balance" means the net amount standing to the credit of this State's account in the unemployment trust fund (less all outstanding advances to that account, including but not limited to advances pursuant to Title XII of the federal Social Security Act) as of June 30 of the immediately preceding calendar year.

The wage base adjustment, rate adjustment, and allowance adjustment applicable to any calendar year after calendar year 2009 shall be as follows:

If the prior year's trust fund balance is less than \$300,000,000, the wage base adjustment shall be \$220, the rate adjustment shall be 0.05%, and the allowance adjustment shall be -0.3% absolute.

If the prior year's trust fund balance is equal to or greater than \$300,000,000 but less than \$700,000,000, the wage base adjustment shall be \$150, the rate adjustment shall be 0.025%, and the allowance adjustment shall be -0.2% absolute.

If the prior year's trust fund balance is equal to or greater than \$700,000,000 but less than \$1,000,000,000, the wage base adjustment shall be \$75, the rate adjustment shall be 0, and the allowance adjustment shall be -0.1% absolute.

If the prior year's trust fund balance is equal to or greater than \$1,000,000,000 but less than \$1,300,000,000, the wage base adjustment shall be -\$75, the rate adjustment shall be 0, and the allowance adjustment shall be 0.1% absolute.

If the prior year's trust fund balance is equal to or greater than \$1,300,000,000 but less than \$1,700,000,000, the wage base adjustment shall be -\$150, the rate adjustment shall be -0.025%, and the allowance adjustment shall be 0.2% absolute.

If the prior year's trust fund balance is equal to or greater than \$1,700,000,000, the wage base adjustment shall be -\$220, the rate adjustment shall be -0.05%, and the allowance adjustment shall be 0.3% absolute.

(820 ILCS 405/1401) (from Ch. 48, par. 551)

Sec. 1401. Interest. Any employer who shall fail to pay any contributions (including any amounts due pursuant to Section 1506.3 or ~~Section 1506.4~~) when required of him by the provisions of this Act and the rules and regulations of the Director, whether or not the amount thereof has been determined and assessed by the Director, shall pay to the Director, in addition to such contribution, interest thereon at the rate of one percent (1%) per month and one-thirtieth (1/30) of one percent (1%) for each day or fraction thereof computed from the day upon which said contribution became due. After 1981, such interest shall accrue at the rate of 2% per month, computed at the rate of 12/365 of 2% for each day or fraction thereof, upon any unpaid contributions which become due, provided that, after 1987, for the purposes of calculating interest due under this Section only, payments received more than 30 days after such contributions become due shall be deemed received on the last day of the month preceding the month in which they were received except that, if the last day of such preceding month is less than 30 days after the date that such contributions became due, then such payments shall be deemed to have been received on the 30th day after the date such contributions became due.

However, all or part of any interest may be waived by the Director for good cause shown.

(Source: P.A. 85-956; 86-1367.)

(820 ILCS 405/1502.1) (from Ch. 48, par. 572.1)

Sec. 1502.1. Employer's benefit charges.

A. Benefit charges which result from payments to any claimant made on or after July 1, 1989 shall be charged:

1. For benefit years beginning prior to July 1, 1989, to each employer who paid wages to the claimant during his base period;
2. For benefit years beginning on or after July 1, 1989 but before January 1, 1993, to the later of:
 - a. the last employer prior to the beginning of the claimant's benefit year:
 - i. from whom the claimant was separated or who, by reduction of work offered, caused the claimant to become unemployed as defined in Section 239, and,
 - ii. for whom the claimant performed services in employment, on each of 30 days whether or not such days are consecutive, provided that the wages for such services were earned during the period from the beginning of the claimant's base period to the beginning of the claimant's benefit year; but that employer shall not be charged if:

(1) the claimant's last separation from that employer was a voluntary leaving without good cause, as the term is used in Section 601A or under the circumstances described in paragraphs 1 and 2 of Section 601B; or

(2) the claimant's last separation from that employer was a discharge for misconduct or a felony or theft connected with his work from that employer, as these terms are used in Section 602; or

(3) after his last separation from that employer, prior to the beginning of his benefit year, the claimant refused to accept an offer of or to apply for suitable work from that employer without good cause, as these terms are used in Section 603; or

(4) the claimant, following his last separation from that employer, prior to the beginning of his benefit year, is ineligible or would have been ineligible under Section 612 if he has or had had base period wages from the employers to which that Section applies; or

(5) the claimant subsequently performed services for at least 30 days for an individual or organization which is not an employer subject to this Act; or

b. the single employer who pays wages to the claimant that allow him to requalify for benefits after disqualification under Section 601, 602 or 603, if:

- i. the disqualifying event occurred prior to the beginning of the claimant's benefit year, and
- ii. the requalification occurred after the beginning of the claimant's benefit year, and
- iii. even if the 30 day requirement given in this paragraph is not satisfied; but
- iv. the requalifying employer shall not be charged if the claimant is held ineligible with respect to that requalifying employer under Section 601, 602 or 603.

3. For benefit years beginning on or after January 1, 1993, with respect to each week for which benefits are paid, to the later of:

a. the last employer:

- i. from whom the claimant was separated or who, by reduction of work offered, caused the claimant to become unemployed as defined in Section 239, and
- ii. for whom the claimant performed services in employment, on each of 30 days whether or not such days are consecutive, provided that the wages for such services were earned since the beginning of the claimant's base period; but that employer shall not be charged if:

(1) the claimant's separation from that employer was a voluntary leaving without good cause, as the term is used in Section 601A or under the circumstances described in paragraphs 1, ~~and 2~~, and 6 of Section 601B; or

(2) the claimant's separation from that employer was a discharge for misconduct or a felony or theft connected with his work from that employer, as these terms are used in Section 602; or

(3) the claimant refused to accept an offer of or to apply for suitable work from that employer without good cause, as these terms are used in Section 603 (but only for weeks following the refusal of work); or

(4) the claimant subsequently performed services for at least 30 days for an individual or organization which is not an employer subject to this Act; or

(5) the claimant, following his separation from that employer, is ineligible or would have been ineligible under Section 612 if he has or had had base period wages from the employers to which that Section applies (but only for the period of ineligibility or potential ineligibility); or

b. the single employer who pays wages to the claimant that allow him to requalify for benefits after disqualification under Section 601, 602, or 603, even if the 30 day requirement given in this paragraph is not satisfied; but the requalifying employer shall not be charged if the claimant is held ineligible with respect to that requalifying employer under Section 601, 602, or 603.

B. Whenever a claimant is ineligible pursuant to Section 614 on the basis of wages paid during his base period, any days on which such wages were earned shall not be counted in determining whether that claimant performed services during at least 30 days for the employer that paid such wages as required by paragraphs 2 and 3 of subsection A.

C. If no employer meets the requirements of paragraph 2 or 3 of subsection A, then no employer will be chargeable for any benefit charges which result from the payment of benefits to the claimant for that

benefit year.

D. Notwithstanding the preceding provisions of this Section, no employer shall be chargeable for any benefit charges which result from the payment of benefits to any claimant after the effective date of this amendatory Act of 1992 where the claimant's separation from that employer occurred as a result of his detention, incarceration, or imprisonment under State, local, or federal law.

E. For the purposes of Sections 302, 409, 701, 1403, 1404, 1405 and 1508.1, last employer means the employer that:

1. is charged for benefit payments which become benefit charges under this Section, or
2. would have been liable for such benefit charges if it had not elected to make payments in lieu of contributions.

(Source: P.A. 86-3; 87-1178.)

(820 ILCS 405/1505) (from Ch. 48, par. 575)

Sec. 1505. Adjustment of state experience factor. The state experience factor shall be adjusted in accordance with the following provisions:

A. This subsection shall apply to each calendar year prior to 1980 for which a state experience factor is being determined.

For every \$7,000,000 (or fraction thereof) by which the amount standing to the credit of this State's account in the unemployment trust fund as of June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined falls below \$450,000,000, the state experience factor for the succeeding calendar year shall be increased 1 percent absolute.

For every \$7,000,000 (or fraction thereof) by which the amount standing to the credit of this State's account in the unemployment trust fund as of June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined exceeds \$450,000,000, the state experience factor for the succeeding year shall be reduced 1 percent absolute.

B. This subsection shall apply to the calendar years 1980 through 1987, for which the state experience factor is being determined.

For every \$12,000,000 (or fraction thereof) by which the amount standing to the credit of this State's account in the unemployment trust fund as of June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined falls below \$750,000,000, the state experience factor for the succeeding calendar year shall be increased 1 percent absolute.

For every \$12,000,000 (or fraction thereof) by which the amount standing to the credit of this State's account in the unemployment trust fund as of June 30 of the calendar year immediately preceding the calendar year for which the state experience factor is being determined exceeds \$750,000,000, the state experience factor for the succeeding year shall be reduced 1 percent absolute.

C. This subsection shall apply to the calendar year 1988 and each calendar year thereafter, for which the state experience factor is being determined.

1. For every \$50,000,000 (or fraction thereof) by which the adjusted trust fund balance falls below the target balance set forth in this subsection ~~\$750,000,000~~, the state experience factor for the succeeding year shall be increased one percent absolute.

For every \$50,000,000 (or fraction thereof) by which the adjusted trust fund balance exceeds the target balance set forth in this subsection ~~\$750,000,000~~, the state experience factor for the succeeding year shall be decreased by one percent absolute.

The target balance in each calendar year prior to 2003 is \$750,000,000. The target balance in calendar year 2003 is \$920,000,000. The target balance in calendar year 2004 is \$960,000,000. The target balance in calendar year 2005 and each calendar year thereafter is \$1,000,000,000.

2. For the purposes of this subsection:

"Net trust fund balance" is the amount standing to the credit of this State's account in the unemployment trust fund as of June 30 of the calendar year immediately preceding the year for which a state experience factor is being determined.

"Adjusted trust fund balance" is the net trust fund balance minus the sum of the benefit reserves for fund building for July 1, 1987 through June 30 of the year prior to the year for which the state experience factor is being determined. The adjusted trust fund balance shall not be less than zero. If the preceding calculation results in a number which is less than zero, the amount by which it is less than zero shall reduce the sum of the benefit reserves for fund building for subsequent years.

For the purpose of determining the state experience factor for 1989 and for each calendar year thereafter, the following "benefit reserves for fund building" shall apply for each state experience factor calculation in which that 12 month period is applicable:

- a. For the 12 month period ending on June 30, 1988, the "benefit reserve for fund

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building" shall be 8/104th of the total benefits paid from January 1, 1988 through June 30, 1988.

b. For the 12 month period ending on June 30, 1989, the "benefit reserve for fund building" shall be the sum of:

- i. 8/104ths of the total benefits paid from July 1, 1988 through December 31, 1988, plus
- ii. 4/108ths of the total benefits paid from January 1, 1989 through June 30, 1989.

c. For the 12 month period ending on June 30, 1990, the "benefit reserve for fund building" shall be 4/108ths of the total benefits paid from July 1, 1989 through December 31, 1989.

d. For 1992 and for each calendar year thereafter, the "benefit reserve for fund building" for the 12 month period ending on June 30, 1991 and for each subsequent 12 month period shall be zero.

3. Notwithstanding the preceding provisions of this subsection, for calendar years 1988 through 2003, the state experience

factor shall not be increased or decreased by more than 15 percent absolute.

D. Notwithstanding the provisions of subsection C, the adjusted state experience factor:

1. Shall be 111 percent for calendar year 1988;
2. Shall not be less than 75 percent nor greater than 135 percent for calendar years year 1989 through 2003; and shall not be less than 75% nor greater than 150% for calendar year 2004 and each calendar year thereafter;

3. Shall not be decreased by more than 5 percent absolute for any calendar year, beginning in calendar year 1989 and through calendar year 1992, by more than 6% absolute for calendar years 1993 through 1995, ~~and~~ by more than 10% absolute for calendar years year 1999 through 2003 and by more than 12% absolute for calendar year 2004 and each calendar year thereafter, from the adjusted state experience factor of the calendar year preceding the calendar year for which the adjusted state experience factor is being determined;

4. Shall not be increased by more than 15% absolute for calendar year 1993, by more than 14% absolute for calendar years 1994 and 1995, ~~and~~ by more than 10% absolute for calendar years year 1999 through 2003 and by more than 16% absolute for calendar year 2004 and each calendar year thereafter, from the adjusted state experience factor for the calendar year preceding the calendar year for which the adjusted state experience factor is being determined;

5. Shall be 100% for calendar years 1996, 1997, and 1998.

E. The amount standing to the credit of this State's account in the unemployment trust fund as of June 30 shall be deemed to include as part thereof (a) any amount receivable on that date from any Federal governmental agency, or as a payment in lieu of contributions under the provisions of Sections 1403 and 1405 B and paragraph 2 of Section 302C, in reimbursement of benefits paid to individuals, and (b) amounts credited by the Secretary of the Treasury of the United States to this State's account in the unemployment trust fund pursuant to Section 903 of the Federal Social Security Act, as amended, including any such amounts which have been appropriated by the General Assembly in accordance with the provisions of Section 2100 B for expenses of administration, except any amounts which have been obligated on or before that date pursuant to such appropriation.

(Source: P.A. 89-446, eff. 2-8-96.)

(820 ILCS 405/1506.3) (from Ch. 48, par. 576.3)

Sec. 1506.3. Fund building rates - Temporary Administrative Funding.

A. Notwithstanding any other provision of this Act, the following fund building rates shall be in effect for the following calendar years:

For each employer whose contribution rate for 1988, 1989, 1990, the first, third, and fourth quarters of 1991, 1992, 1993, 1994, 1995, and 1997 through 2003 and ~~any calendar year thereafter~~ would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and a fund building rate of 0.4%;

For each employer whose contribution rate for the second quarter of 1991 would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and 0.3%;

For each employer whose contribution rate for 1996 would, in the absence of this Section, be 0.1% or higher, a contribution rate which is the sum of such rate and 0.4%;

For each employer whose contribution rate for 2004 through 2009 would, in the absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and the following: a fund building rate of 0.7% for 2004; a fund building rate of 0.9% for 2005; a fund building rate of 0.8% for 2006 and 2007; a fund building rate of 0.6% for 2008; a fund building rate of 0.4% for 2009.

For each employer whose contribution rate for 2010 and any calendar year thereafter would, in the

absence of this Section, be 0.2% or higher, a contribution rate which is the sum of such rate and a fund building rate equal to the sum of the rate adjustment applicable to that year pursuant to Section 1400.1, plus the fund building rate in effect pursuant to this Section for the immediately preceding calendar year. Notwithstanding any provision to the contrary, the fund building rate in effect for any calendar year after calendar year 2009 shall not be less than 0.4% or greater than 0.55%.

Notwithstanding the preceding paragraphs of this Section or any other provision of this Act, except for the provisions contained in Section 1500 pertaining to rates applicable to employers classified under the Standard Industrial Code, or another classification system sanctioned by the United States Department of Labor and prescribed by the Director by rule, no employer whose total wages for insured work paid by him during any calendar quarter in 1988 and any calendar year thereafter are less than \$50,000 shall pay contributions at a rate with respect to such quarter which exceeds the following: with respect to calendar year 1988, 5%; with respect to 1989 and any calendar year thereafter, 5.4%.

Notwithstanding the preceding paragraph of this Section, or any other provision of this Act, no employer's contribution rate with respect to calendar years 1993 through 1995 shall exceed 5.4% if the employer ceased operations at an Illinois manufacturing facility in 1991 and remained closed at that facility during all of 1992, and the employer in 1993 commits to invest at least \$5,000,000 for the purpose of resuming operations at that facility, and the employer rehires during 1993 at least 250 of the individuals employed by it at that facility during the one year period prior to the cessation of its operations, provided that, within 30 days after the effective date of this amendatory Act of 1993, the employer makes application to the Department to have the provisions of this paragraph apply to it. The immediately preceding sentence shall be null and void with respect to an employer which by December 31, 1993 has not satisfied the rehiring requirement specified by this paragraph or which by December 31, 1994 has not made the investment specified by this paragraph. All payments attributable to the fund building rate established pursuant to this Section with respect to the fourth quarter of calendar year 2003, the first quarter of calendar year 2004 and any calendar quarter thereafter as of the close of which there are either bond obligations outstanding pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, or bond obligations anticipated to be outstanding as of either or both of the 2 immediately succeeding calendar quarters, shall be directed for deposit into the Master Bond Fund.

B. Notwithstanding any other provision of this Act, for the second quarter of 1991, the contribution rate of each employer as determined in accordance with Sections 1500, 1506.1, and subsection A of this Section shall be equal to the sum of such rate and 0.1%; provided that this subsection shall not apply to any employer whose rate computed under Section 1506.1 for such quarter is between 5.1% and 5.3%, inclusive, and who qualifies for the 5.4% rate ceiling imposed by the last paragraph of subsection A for such quarter. All payments made pursuant to this subsection shall be deposited in the Employment Security Administrative Fund established under Section 2103.1 and used for the administration of this Act.

C. Payments received by the Director which are insufficient to pay the total contributions due under the Act shall be first applied to satisfy the amount due pursuant to subsection B.

C-1. Payments received by the Director with respect to the fourth quarter of calendar year 2003, the first quarter of calendar year 2004 and any calendar quarter thereafter as of the close of which there are either bond obligations outstanding pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, or bond obligations anticipated to be outstanding as of either or both of the 2 immediately succeeding calendar quarters, shall, to the extent they are insufficient to pay the total amount due under the Act with respect to the quarter, be first applied to satisfy the amount due with respect to that quarter and attributable to the fund building rate established pursuant to this Section. Notwithstanding any other provision to the contrary, with respect to an employer whose contribution rate with respect to a quarter subject to this subsection would have exceeded 5.4% but for the 5.4% rate ceiling imposed pursuant to subsection A, the amount due from the employer with respect to that quarter and attributable to the fund building rate established pursuant to subsection A shall equal the amount, if any, by which the amount due and attributable to the 5.4% rate exceeds the amount that would have been due and attributable to the employer's rate determined pursuant to Sections 1500 and 1506.1, without regard to the fund building rate established pursuant to subsection A.

D. All provisions of this Act applicable to the collection or refund of any contribution due under this Act shall be applicable to the collection or refund of amounts due pursuant to subsection B and amounts directed pursuant to this Section for deposit into the Master Bond Fund to the extent they would not otherwise be considered as contributions.

(Source: P.A. 91-342, eff. 1-1-00.)

(820 ILCS 405/1507) (from Ch. 48, par. 577)

Sec. 1507. Contribution rates of successor and predecessor employing units.

[November 20, 2003]

A. Whenever any employing unit succeeds to substantially all of the employing enterprises of another employing unit, then in determining contribution rates for any calendar year, the experience rating record of the predecessor prior to the succession shall be transferred to the successor and thereafter it shall not be treated as the experience rating record of the predecessor, except as provided in subsection B. For the purposes of this Section, such experience rating record shall consist of all years during which liability for the payment of contributions was incurred by the predecessor prior to the succession, all benefit wages based upon wages paid by the predecessor prior to the succession, all benefit charges based on separations from, or reductions in work initiated by, ~~benefits paid by~~ the predecessor prior to the succession, and all wages for insured work paid by the predecessor prior to the succession. This amendatory Act of the 93rd General Assembly is intended to be a continuation of prior law.

B. The provisions of this subsection shall be applicable only to the determination of contribution rates for the calendar year 1956 and for each calendar year thereafter. Whenever any employing unit has succeeded to substantially all of the employing enterprises of another employing unit, but the predecessor employing unit has retained a distinct severable portion of its employing enterprises or whenever any employing unit has succeeded to a distinct severable portion which is less than substantially all of the employing enterprises of another employing unit, the successor employing unit shall acquire the experience rating record attributable to the portion to which it has succeeded, and the predecessor employing unit shall retain the experience rating record attributable to the portion which it has retained, if--

1. It files a written application for such experience rating record which is joined in by the employing unit which is then entitled to such experience rating record; and

2. The joint application contains such information as the Director shall by regulation prescribe which will show that such experience rating record is identifiable and segregable and, therefore, capable of being transferred; and

3. The joint application is filed prior to whichever of the following dates is the latest: (a) July 1, 1956; (b) one year after the date of the succession; or (c) the date that the rate determination of the employing unit which has applied for such experience rating record has become final for the calendar year immediately following the calendar year in which the succession occurs. The filing of a timely joint application shall not affect any rate determination which has become final, as provided by Section 1509.

If all of the foregoing requirements are met, then the Director shall transfer such experience rating record to the employing unit which has applied therefor, and it shall not be treated as the experience rating record of the employing unit which has joined in the application.

Whenever any employing unit is reorganized into two or more employing units, and any of such employing units are owned or controlled by the same interests which owned or controlled the predecessor prior to the reorganization, and the provisions of this subsection become applicable thereto, then such affiliated employing units during the period of their affiliation shall be treated as a single employing unit for the purpose of determining their rates of contributions.

C. For the calendar year in which a succession occurs which results in the total or partial transfer of a predecessor's experience rating record, the contribution rates of the parties thereto shall be determined in the following manner:

1. If any of such parties had a contribution rate applicable to it for that calendar year, it shall continue with such contribution rate.

2. If any successor had no contribution rate applicable to it for that calendar year, and only one predecessor is involved, then the contribution rate of the successor shall be the same as that of its predecessor.

3. If any successor had no contribution rate applicable to it for that calendar year, and two or more predecessors are involved, then the contribution rate of the successor shall be computed, on the combined experience rating records of the predecessors or on the appropriate part of such records if any partial transfer is involved, as provided in Sections 1500 to 1507, inclusive.

4. Notwithstanding the provisions of paragraphs 2 and 3 of this subsection, if any succession occurs prior to the calendar year 1956 and the successor acquires part of the experience rating record of the predecessor as provided in subsection B of this Section, then the contribution rate of that successor for the calendar year in which such succession occurs shall be 2.7 percent.

(Source: P.A. 90-554, eff. 12-12-97; 91-342, eff. 1-1-00.)

(820 ILCS 405/1511.1 new)

Sec. 1511.1. Effects of 2004 Solvency Legislation. The Employment Security Advisory Board shall hold public hearings on the progress toward meeting the Trust Fund solvency projections made in accordance with this amendatory Act of the 93d General Assembly. The hearings shall also consider

issues related to benefit eligibility, benefit levels, employer contributions, and future trust fund solvency goals. The Board shall, in accordance with its operating resolutions, approve and report findings from the hearings to the Illinois General Assembly by April 1, 2007. A copy of the findings shall be available to the public on the Department's website.

(820 ILCS 405/2100) (from Ch. 48, par. 660)

Sec. 2100. Handling of funds - Bond - Accounts.

A. All contributions and payments in lieu of contributions collected under this Act, including but not limited to fund building receipts, together with any interest thereon; all penalties collected pursuant to this Act; any property or securities acquired through the use thereof; all moneys advanced to this State's account in the unemployment trust fund pursuant to the provisions of Title XII of the Social Security Act, as amended; all moneys directed for transfer from the Master Bond Fund to this State's account in the unemployment trust fund ~~received from the federal tax avoidance surcharge established by Section 4506.4;~~ all moneys received from the Federal government as reimbursements pursuant to Section 204 of the Federal-State Extended Unemployment Compensation Act of 1970, as amended; all moneys credited to this State's account in the unemployment trust fund pursuant to Section 903 of the Federal Social Security Act, as amended; and all earnings of such property or securities and any interest earned upon any such moneys shall be paid or turned over to and held by the Director, as ex-officio custodian of the clearing account, the unemployment trust fund account and the benefit account, and by the State Treasurer, as ex-officio custodian of the special administrative account, separate and apart from all public moneys or funds of this State, as hereinafter provided. Such moneys shall be administered by the Director exclusively for the purposes of this Act.

No such moneys shall be paid or expended except upon the direction of the Director in accordance with such regulations as he shall prescribe pursuant to the provisions of this Act.

The State Treasurer shall be liable on his general official bond for the faithful performance of his duties in connection with the moneys in the special administrative account provided for under this Act. Such liability on his official bond shall exist in addition to the liability upon any separate bond given by him. All sums recovered for losses sustained by the account shall be deposited in that account.

The Director shall be liable on his general official bond for the faithful performance of his duties in connection with the moneys in the clearing account, the benefit account and unemployment trust fund account provided for under this Act. Such liability on his official bond shall exist in addition to the liability upon any separate bond given by him. All sums recovered for losses sustained by any one of the accounts shall be deposited in the account that sustained such loss.

The Treasurer shall maintain for such moneys 3 separate accounts: a clearing account, a benefit account and an unemployment trust fund account. All moneys payable under this Act (except moneys requisitioned from this State's account in the unemployment trust fund and deposited in the benefit account), including but not limited to moneys directed for transfer from the Master Bond Fund to this State's account in the unemployment trust fund, upon receipt thereof by the Director, shall be immediately deposited in the clearing account; provided, however, that, except as is otherwise provided in this Section, interest and penalties shall not be deemed a part of the clearing account but shall be transferred immediately upon clearance thereof to the special administrative account.

After clearance thereof, all other moneys in the clearing account shall be immediately deposited by the Director with the Secretary of the Treasury of the United States of America to the credit of the account of this State in the unemployment trust fund, established and maintained pursuant to the Federal Social Security Act, as amended, except fund building receipts, which shall be deposited into the Master Bond Fund. The benefit account shall consist of all moneys requisitioned from this State's account in the unemployment trust fund. The moneys in the benefit account shall be expended in accordance with regulations prescribed by the Director and solely for the payment of benefits, refunds of contributions, interest and penalties under the provisions of the Act, the payment of health insurance in accordance with Section 410 of this Act, and the transfer or payment of funds to any Federal or State agency pursuant to reciprocal arrangements entered into by the Director under the provisions of Section 2700E, except that moneys credited to this State's account in the unemployment trust fund pursuant to Section 903 of the Federal Social Security Act, as amended, shall be used exclusively as provided in subsection B. For purposes of this Section only, to the extent allowed by applicable legal requirements, the payment of benefits includes but is not limited to the payment of principal on any bonds issued pursuant to the Illinois Unemployment Insurance Trust Fund Financing Act, exclusive of any interest or administrative expenses in connection with the bonds. The Director shall, from time to time, requisition from the unemployment trust fund such amounts, not exceeding the amounts standing to the State's account therein, as he deems necessary solely for the payment of such benefits, refunds, and funds, for a

reasonable future period. The Director, as ex-officio custodian of the benefit account, which shall be kept separate and apart from all other public moneys, shall issue his checks for the payment of such benefits, refunds, health insurance and funds solely from the moneys so received into the benefit account. However, after January 1, 1987, no check shall be drawn on such benefit account unless at the time of drawing there is sufficient money in the account to pay the check. The Director shall retain in the clearing account an amount of interest and penalties equal to the amount of interest and penalties to be refunded from the benefit account. After clearance thereof, the amount so retained shall be immediately deposited by the Director, as are all other moneys in the clearing account, with the Secretary of the Treasury of the United States. If, at any time, an insufficient amount of interest and penalties is available for retention in the clearing account, no refund of interest or penalties shall be made from the benefit account until a sufficient amount is available for retention and is so retained, or until the State Treasurer, upon the direction of the Director, transfers to the Director a sufficient amount from the special administrative account, for immediate deposit in the benefit account.

Any balance of moneys requisitioned from the unemployment trust fund which remains unclaimed or unpaid in the benefit account after the expiration of the period for which such sums were requisitioned shall either be deducted from estimates of and may be utilized for authorized expenditures during succeeding periods, or, in the discretion of the Director, shall be redeposited with the Secretary of the Treasury of the United States to the credit of the State's account in the unemployment trust fund.

Moneys in the clearing, benefit and special administrative accounts shall not be commingled with other State funds but they shall be deposited as required by law and maintained in separate accounts on the books of a savings and loan association or bank.

No bank or savings and loan association shall receive public funds as permitted by this Section, unless it has complied with the requirements established pursuant to Section 6 of "An Act relating to certain investments of public funds by public agencies", approved July 23, 1943, as now or hereafter amended.

B. Moneys credited to the account of this State in the unemployment trust fund by the Secretary of the Treasury of the United States pursuant to Section 903 of the Social Security Act may be requisitioned from this State's account and used as authorized by Section 903. Any interest required to be paid on advances under Title XII of the Social Security Act shall be paid in a timely manner and shall not be paid, directly or indirectly, by an equivalent reduction in contributions or payments in lieu of contributions from amounts in this State's account in the unemployment trust fund. Such moneys may be requisitioned and used for the payment of expenses incurred for the administration of this Act, but only pursuant to a specific appropriation by the General Assembly and only if the expenses are incurred and the moneys are requisitioned after the enactment of an appropriation law which:

1. Specifies the purpose or purposes for which such moneys are appropriated and the amount or amounts appropriated therefor;
2. Limits the period within which such moneys may be obligated to a period ending not more than 2 years after the date of the enactment of the appropriation law; and
3. Limits the amount which may be obligated during any fiscal year to an amount which

does not exceed the amount by which (a) the aggregate of the amounts transferred to the account of this State pursuant to Section 903 of the Social Security Act exceeds (b) the aggregate of the amounts used by this State pursuant to this Act and charged against the amounts transferred to the account of this State.

For purposes of paragraph (3) above, amounts obligated for administrative purposes pursuant to an appropriation shall be chargeable against transferred amounts at the exact time the obligation is entered into. The appropriation, obligation, and expenditure or other disposition of money appropriated under this subsection shall be accounted for in accordance with standards established by the United States Secretary of Labor.

Moneys appropriated as provided herein for the payment of expenses of administration shall be requisitioned by the Director as needed for the payment of obligations incurred under such appropriation. Upon requisition, such moneys shall be deposited with the State Treasurer, who shall hold such moneys, as ex-officio custodian thereof, in accordance with the requirements of Section 2103 and, upon the direction of the Director, shall make payments therefrom pursuant to such appropriation. Moneys so deposited shall, until expended, remain a part of the unemployment trust fund and, if any will not be expended, shall be returned promptly to the account of this State in the unemployment trust fund.

C. The Governor is authorized to apply to the United States Secretary of Labor for an advance or advances to this State's account in the unemployment trust fund pursuant to the conditions set forth in Title XII of the Federal Social Security Act, as amended. The amount of any such advance may be repaid from this State's account in the unemployment trust fund ~~provided that if the federal penalty tax avoidance surcharge established by Section 1506.4 is in effect for that year, any outstanding advance~~

~~shall first be repaid from amounts in this State's account in the unemployment trust fund which were received from such surcharge by November 9 of each year.~~

(Source: P.A. 91-342, eff. 1-1-00.)

(820 ILCS 405/2106.1 new)

Sec. 2106.1. Master Bond Fund. There is hereby established the Master Bond Fund held by the Director or his or her designee as ex-officio custodian thereof separate and apart from all other State funds. The moneys in the Fund shall be used in accordance with the Illinois Unemployment Insurance Trust Fund Financing Act.

(820 ILCS 405/1506.4 rep.) (820 ILCS 405/2104 rep.)

Sec. 13.4. The Unemployment Insurance Act is amended by repealing Sections 1506.4 and 2104. Section 14. Effective Date. This Act takes effect on January 1, 2004."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Ronen, **House Bill No. 810**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Welch, **House Bill No. 906** was recalled from the order of third reading to the order of second reading.

Senator Welch offered the following amendment and moved its adoption:

AMENDMENT NO. 1

AMENDMENT NO. 1. Amend House Bill 906 by replacing the title with the following:

"AN ACT concerning the State Police."; and

[November 20, 2003]

by replacing everything after the enacting clause with the following:

"Section 5. The State Police Act is amended by changing Section 8.2 and by adding Sections 8.3, 8.4, and 8.5 as follows:

(20 ILCS 2610/8.2) (from Ch. 121, par. 307.8b)

Sec. 8.2. Longevity increment in salary. All State Police Officers ~~Police~~, regardless of rank, shall receive a longevity increment at the start of their 2nd, 3rd, 4th, 5th, 6 1/2, 8th, 10th, 12 1/2, 15th, 17 1/2, 20th, 22 1/2, and 25th years of service with the Illinois State Police amounting to approximately five percent of a trooper's salary for the year preceding that service anniversary. The changes made by this amendatory Act of the 93rd General Assembly apply retroactively beginning July 1, 2003.

(Source: P.A. 83-914.)

(20 ILCS 2610/8.3 new)

Sec. 8.3. Salary differential. There shall be a minimum salary level established for the ranks of State Police Officers in each longevity step as enumerated in Section 8.2 based on Trooper's Lodge 41 sworn salary contract schedule effective July 1, 2003, in the following order:

- (1) Nine percent between the ranks of Sergeant to Master Sergeant;
- (2) Eight percent between the ranks of Master Sergeant to Lieutenant;
- (3) Nine percent between the ranks of Lieutenant to Captain; and
- (4) Four percent between the ranks of Captain to Major.

The changes made by this amendatory Act of the 93rd General Assembly apply retroactively beginning July 1, 2003.

(20 ILCS 2610/8.4 new)

Sec. 8.4. Vacation time.

(a) All State Police Officers, regardless of rank, shall receive vacation time based on the following formula:

- (1) less than 5 years of service: 10 days per year accrued at the rate of 6 hours, 40 minutes per month;
- (2) 5 years of service: 15 days per year accrued at the rate of 10 hours per month;
- (3) 9 years of service: 17 days per year accrued at the rate of 11 hours, 20 minutes per month;
- (4) 14 years of service: 20 days per year accrued at the rate of 13 hours, 20 minutes per month;
- (5) 19 years of service: 22 days per year accrued at the rate of 14 hours, 40 minutes per month; and
- (6) 25 years of service: 25 days per year accrued at the rate of 16 hours, 40 minutes per month.

Vacation must be taken within 24 months after the calendar year in which it was earned, or it will be forfeited. In order for an employee to receive vacation time credit for the month, the employee must be in pay status at least one-half of the work days of the month. In computing vacation time, the increase in rate commences on the first of the month in which the employee's vacation earning date falls. Officers will only be required to use, as a maximum, the same number of hours of vacation time per day as they are required to work for each normal work day. Accrued time cannot be used to extend the resignation date of an employee. At the time an employee terminates from State service, his or her balance of unused vacation time will be rounded up to the nearest hour and will be paid in a lump sum at the appropriate hourly rate, if the officer has at least 6 months of continuous service with the State.

(20 ILCS 2610/8.5 new)

Sec. 8.5. Pension contributions. The State shall provide the same percentage of contributions for all State Police officers, regardless of rank, when making contributions to the pension fund.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Welch, **House Bill No. 906**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 57; Nays None.

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The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Munoz, **Senate Bill No. 713**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Munoz moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 713**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Lightford, **Senate Bill No. 771**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Lightford moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 771**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Schoenberg, **Senate Bill No. 867**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Schoenberg moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 33; Nays 22.

The following voted in the affirmative:

Clayborne	Haine	Martinez	Sullivan, D.
Collins	Halvorson	Meeks	Sullivan, J.
Crotty	Harmon	Munoz	Viverito
Cullerton	Hendon	Obama	Walsh
del Valle	Hunter	Ronen	Welch
DeLeo	Jacobs	Sandoval	Mr. President
Demuzio	Lightford	Schoenberg	
Forby	Link	Shadid	
Garrett	Maloney	Silverstein	

The following voted in the negative:

Althoff	Jones, W.	Rauschenberger	Soden
Bomke	Lauzen	Righter	Syverson
Brady	Luechtefeld	Risinger	Watson
Dillard	Peterson	Roskam	Winkel
Geo-Karis	Petka	Rutherford	
Jones, J.	Radogno	Sieben	

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The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 867**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Welch, **Senate Bill No. 978**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Welch moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 57; Nays None.

The following voted in the affirmative:

Althoff	Haine	Munoz	Silverstein
Bomke	Halvorson	Obama	Soden
Brady	Harmon	Peterson	Sullivan, D.
Clayborne	Hendon	Petka	Sullivan, J.
Collins	Hunter	Radogno	Syverson
Cronin	Jacobs	Rauschenberger	Trotter
Crotty	Jones, J.	Righter	Viverito
Cullerton	Jones, W.	Risinger	Walsh
del Valle	Lauzen	Ronen	Watson
DeLeo	Lightford	Roskam	Welch
Demuzio	Link	Rutherford	Winkel
Dillard	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 978**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Silverstein, **Senate Bill No. 1656**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Senator Silverstein moved that the Senate concur with the House in the adoption of their amendment to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 55; Nays 2.

The following voted in the affirmative:

Althoff	Haine	Meeks	Shadid
Brady	Halvorson	Munoz	Sieben
Clayborne	Harmon	Obama	Silverstein
Collins	Hendon	Peterson	Soden
Cronin	Hunter	Petka	Sullivan, D.
Crotty	Jacobs	Radogno	Syverson
Cullerton	Jones, J.	Rauschenberger	Trotter
del Valle	Jones, W.	Righter	Viverito
DeLeo	Lauzen	Risinger	Walsh
Demuzio	Lightford	Ronen	Watson
Dillard	Link	Roskam	Welch
Forby	Luechtefeld	Rutherford	Winkel

Garrett	Maloney	Sandoval	Mr. President
Geo-Karis	Martinez	Schoenberg	

The following voted in the negative:

Bomke
Sullivan, J.

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendment No. 1 to **Senate Bill No. 1656**.

Ordered that the Secretary inform the House of Representatives thereof.

On motion of Senator Jacobs, **Senate Bill No. 1704**, with House Amendment No. 1 on the Secretary's Desk, was taken up for immediate consideration.

Pending roll call, on motion of Senator Jacobs, further consideration of **Senate Bill 1704**, with House Amendment No. 1 was postponed.

On motion of Senator Walsh, **House Bill No. 741**, with Senate Amendment No. 2 on the Secretary's Desk, was taken up for immediate consideration.

Senator Walsh moved that the Senate recede from its Amendment No. 2 to **House Bill No. 741**.

And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays None.

The following voted in the affirmative:

Althoff	Halvorson	Obama	Soden
Bomke	Harmon	Peterson	Sullivan, D.
Brady	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Laufen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Mr. President
Forby	Maloney	Schoenberg	
Garrett	Martinez	Shadid	
Geo-Karis	Meeks	Sieben	
Haine	Munoz	Silverstein	

The motion prevailed.

And the Senate receded from their Amendment No. 2 to **House Bill No. 741**.

Ordered that the Secretary inform the House of Representatives thereof.

PRESENTATION OF RESOLUTIONS

SENATE RESOLUTION 336

Offered by Senator Demuzio, E. Jones and all Senators:

Mourns the death of Gary Lee Lisk of Naples, Florida.

By unanimous consent, the foregoing resolution was referred to the Resolutions Consent Calendar.

MESSAGE FROM THE HOUSE

[November 20, 2003]

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 702

A bill for AN ACT in relation to governmental ethics.

Together with the following amendments which are attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 2 to SENATE BILL NO. 702

House Amendment No. 3 to SENATE BILL NO. 702

House Amendment No. 4 to SENATE BILL NO. 702

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 2 TO SENATE BILL 702

AMENDMENT NO. 2 _____. Amend Senate Bill 702 by replacing everything after the enacting clause with the following:

"Section 5.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the State Officials and Employees Ethics Act is amended by changing Sections 1-5, 5-5, 5-10, 5-20, 5-45, 15-10, 15-20, 15-25, 50-5, 70-5, and 70-15 and by adding Sections 5-50, 5-55, and 15-40 and Articles 10, 20, 25, 30, and 35 as follows:

(93 HB3412enr. Art. 1, Sec. 1-5)

Sec. 1-5. Definitions. As used in this Act:

"Appointee" means a person appointed to a position in or with a State agency, regardless of whether the position is compensated.

"Campaign for elective office" means any activity in furtherance of an effort to influence the selection, nomination, election, or appointment of any individual to any federal, State, or local public office or office in a political organization, or the selection, nomination, or election of Presidential or Vice-Presidential electors, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Candidate" means a person who has filed nominating papers or petitions for nomination or election to an elected State office, or who has been appointed to fill a vacancy in nomination, and who remains eligible for placement on the ballot at either a general primary election or general election.

"Collective bargaining" has the same meaning as that term is defined in Section 3 of the Illinois Public Labor Relations Act.

"Commission" means an ethics commission created by this Act.

"Compensated time" means any time worked by or credited to a State employee that counts toward any minimum work time requirement imposed as a condition of employment with a State agency, but does not include any designated State holidays or any period when the employee is on a leave of absence.

"Compensatory time off" means authorized time off earned by or awarded to a State employee to compensate in whole or in part for time worked in excess of the minimum work time required of that employee as a condition of employment with a State agency.

"Contribution" has the same meaning as that term is defined in Section 9-1.4 of the Election Code.

"Employee" means (i) any person employed full-time, part-time, or pursuant to a contract and whose employment duties are subject to the direction and control of an employer with regard to the material details of how the work is to be performed or (ii) any appointee.

"Executive branch constitutional officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

"Gift" means any gratuity, discount, entertainment, hospitality, loan, forbearance, or other tangible or intangible item having monetary value including, but not limited to, cash, food and drink, and honoraria for speaking engagements related to or attributable to government employment or the official position of an employee, member, or officer.

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"Governmental entity" means a unit of local government or a school district but not a State agency.

"Leave of absence" means any period during which a State employee does not receive (i) compensation for State employment, (ii) service credit towards State pension benefits, and (iii) health insurance benefits paid for by the State.

"Legislative branch constitutional officer" means a member of the General Assembly and the Auditor General.

"Legislative leader" means the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

"Member" means a member of the General Assembly.

"Officer" means an executive branch ~~a State~~ constitutional officer ~~of the executive~~ or a legislative branch constitutional officer.

"Political" means any activity in support of or in connection with any campaign for elective office or any political organization, but does not include activities (i) relating to the support or opposition of any executive, legislative, or administrative action (as those terms are defined in Section 2 of the Lobbyist Registration Act), (ii) relating to collective bargaining, or (iii) that are otherwise in furtherance of the person's official State duties.

"Political organization" means a party, committee, association, fund, or other organization (whether or not incorporated) that is required to file a statement of organization with the State Board of Elections or a county clerk under Section 9-3 of the Election Code, but only with regard to those activities that require filing with the State Board of Elections or a county clerk.

"Prohibited political activity" means:

(1) Preparing for, organizing, or participating in any political meeting, political rally, political demonstration, or other political event.

(2) Soliciting contributions, including but not limited to the purchase of, selling, distributing, or receiving payment for tickets for any political fundraiser, political meeting, or other political event.

(3) Soliciting, planning the solicitation of, or preparing any document or report regarding any thing of value intended as a campaign contribution.

(4) Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(5) Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question.

(6) Assisting at the polls on election day on behalf of any political organization or candidate for elective office or for or against any referendum question.

(7) Soliciting votes on behalf of a candidate for elective office or a political organization or for or against any referendum question or helping in an effort to get voters to the polls.

(8) Initiating for circulation, preparing, circulating, reviewing, or filing any petition on behalf of a candidate for elective office or for or against any referendum question.

(9) Making contributions on behalf of any candidate for elective office in that capacity or in connection with a campaign for elective office.

(10) Preparing or reviewing responses to candidate questionnaires in connection with a campaign for elective office or on behalf of a political organization for political purposes.

(11) Distributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question.

(12) Campaigning for any elective office or for or against any referendum question.

(13) Managing or working on a campaign for elective office or for or against any referendum question.

(14) Serving as a delegate, alternate, or proxy to a political party convention.

(15) Participating in any recount or challenge to the outcome of any election, except to the extent that under subsection (d) of Section 6 of Article IV of the Illinois Constitution each house of the General Assembly shall judge the elections, returns, and qualifications of its members.

"Prohibited source" means any person or entity who:

(1) is seeking official action (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(2) does business or seeks to do business (i) with the member or officer or (ii) in the case of an employee, with the employee or with the member, officer, State agency, or other employee directing the employee;

(3) conducts activities regulated (i) by the member or officer or (ii) in the case of an employee, by the employee or by the member, officer, State agency, or other employee directing the employee;

(4) has interests that may be substantially affected by the performance or non-performance of the official duties of the member, officer, or employee; or

(5) is registered or required to be registered with the Secretary of State under the Lobbyist Registration Act, except that an entity not otherwise a prohibited source does not become a prohibited source merely because a registered lobbyist is one of its members or serves on its board of directors.

"State agency" includes all officers, boards, commissions and agencies created by the Constitution, whether in the executive or legislative branch; all officers, departments, boards, commissions, agencies, institutions, authorities, public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, and bodies politic and corporate of the State; and administrative units or corporate outgrowths of the State government which are created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and all administrative units and corporate outgrowths of the above and as may be created by executive order of the Governor. "State agency" includes the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, and the legislative support services agencies. "State agency" includes the Office of the Auditor General. "State agency" does not include the judicial branch.

"State employee" means any employee of a State agency.

"Ultimate jurisdictional authority" means the following:

(1) For members, legislative partisan staff, and legislative secretaries, the appropriate legislative leader: President of the Senate, Minority Leader of the Senate, Speaker of the House of Representatives, or Minority Leader of the House of Representatives.

(2) For State employees who are professional staff or employees of the Senate and not covered under item (1), the Senate Operations Commission.

(3) For State employees who are professional staff or employees of the House of Representatives and not covered under item (1), the Speaker of the House of Representatives.

(4) For State employees who are employees of the legislative support services agencies, the Joint Committee on Legislative Support Services.

(5) For State employees of the Auditor General, the Auditor General.

(6) For State employees of public institutions of higher learning as defined in Section 2 of the Higher Education Cooperation Act, the board of trustees of the appropriate public institution of higher learning.

(7) For State employees of an executive branch constitutional officer other than those described in paragraph (6), the appropriate executive branch constitutional officer.

(8) For State employees not under the jurisdiction of paragraph (1), (2), (3), (4), (5), (6), or (7), the Governor.

(Source: 93HB3412enr.)

(93 HB3412enr. Art. 5, Sec. 5-5)

Sec. 5-5. Personnel policies. (a) Each of the following shall adopt and implement personnel policies for all State employees under his, her, or its jurisdiction and control: (i) each executive branch constitutional officer, (ii) each legislative leader, (iii) the Senate Operations Commission, with respect to legislative employees under Section 4 of the General Assembly Operations Act, (iv) the Speaker of the House of Representatives, with respect to legislative employees under Section 5 of the General Assembly Operations Act, (v) the Joint Committee on Legislative Support Services, with respect to State employees of the legislative support services agencies, (vi) members of the General Assembly, with respect to legislative assistants, as provided in Section 4 of the General Assembly Compensation Act, (vii) the Auditor General, (viii) the Board of Higher Education, with respect to State employees of public institutions of higher learning except community colleges, and (ix) the Illinois Community College Board, with respect to State employees of community colleges. The Governor shall adopt and implement those policies for all State employees of the executive branch not under the jurisdiction and control of any other executive branch constitutional officer.

(b) The policies required under subsection (a) shall be filed with the appropriate ethics commission established under this Act or, for the Auditor General, with the Office of the Auditor General.

~~(c)~~ The policies required under subsection (a) shall include policies relating to work time requirements, documentation of time worked, documentation for reimbursement for travel on official State business, compensation, and the earning or accrual of State benefits for all State employees who may be eligible to receive those benefits. The policies shall comply with and be consistent with all other

applicable laws. ~~For State employees of the legislative branch,~~ The policies shall require State ~~those~~ employees to periodically submit time sheets documenting the time spent each day on official State business to the nearest quarter hour; contractual State ~~employees of the legislative branch~~ may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. The policies for State employees ~~of the legislative branch~~ shall require those time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years.

(d) The policies required under subsection (a) shall be adopted by the applicable entity before February 1, 2004 and shall apply to State employees beginning 30 days after adoption. (Source: 93HB3412enr.)

(93 HB3412enr. Art. 5, Sec. 5-10)

Sec. 5-10. Ethics training. Each officer, member, and employee must complete, at least annually beginning in 2004, an ethics training program conducted by the appropriate State agency. Each ultimate jurisdictional authority must implement an ethics training program for its officers, members, and employees. These ethics training programs shall be overseen by the appropriate Ethics Commission and Inspector General appointed pursuant to this Act in consultation with the Office of the Attorney General.

Each Inspector General shall set standards and determine the hours and frequency of training necessary for each position or category of positions. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 6 months after commencement of his or her office or employment.

~~Ethics training. Each officer and employee must complete, at least annually, an ethics training program conducted by the appropriate ethics officer appointed under the State Gift Ban Act. Each ultimate jurisdictional authority must implement an ethics training program for its officers and employees. A person who fills a vacancy in an elective or appointed position that requires training and a person employed in a position that requires training must complete his or her initial ethics training within 6 months after commencement of his or her office or employment.~~ (Source: 93HB3412enr.)

(93 HB3412enr. Art. 5, Sec. 5-20)

Section 5-20. Public service announcements; other promotional material.

(a) Beginning January 1, 2004, no public service announcement or advertisement that is on behalf of any State administered program and contains the proper name, image, or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a commercial newspaper or a commercial magazine at any time.

(b) The proper name or image of any executive branch constitutional officer or member of the General Assembly may not appear on any (i) bumper stickers, (ii) commercial billboards, (iii) lapel pins or buttons, (iv) magnets, (v) stickers, and (vi) other similar promotional items, if designed, paid for, prepared, or distributed using public dollars. This subsection does not apply to stocks of items existing on the effective date of this amendatory Act of the 93rd General Assembly.

~~(a) Except as otherwise provided in this Section, no public service announcement or advertisement that is on behalf of any State administered program and that contains the image or voice of any executive branch constitutional officer or member of the General Assembly shall be broadcast or aired on radio or television or printed in a newspaper at any time on or after the date that the officer or member files his or her nominating petitions for public office and for any time thereafter that the officer or member remains a candidate for any office.~~

~~(c)(b) This Section does not apply to communications funded through expenditures required to be reported under Article 9 of the Election Code.~~ (Source: 93HB3412enr.)

(93 HB3412enr. Art. 5, Sec. 5-45)

Section 5-45. Procurement; revolving door prohibition.

(a) No former officer, member, or State employee, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from a person or entity if the officer, member, or State employee, during the year immediately preceding termination of State employment, participated personally and substantially in the decision to award State contracts with a cumulative value of over \$25,000 to the person or entity, or its parent or subsidiary.

(b) No former officer of the executive branch or State employee of the executive branch with regulatory or licensing authority, or spouse or immediate family member living with such person, shall, within a period of one year immediately after termination of state employment, knowingly accept employment or receive compensation of fees for services from a person or entity if the officer or State employee, during the year immediately preceding termination of State employment, made a regulatory

or licensing decision that directly applied to the person or entity, or its parent or subsidiary.

(c) The requirements of this Section may be waived (i) for the executive branch, in writing by the Executive Ethics Commission, (ii) for the legislative branch, in writing by the Legislative Ethics Commission, and (iii) for the Auditor General, in writing by the Auditor General. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Executive Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. During the time period from the effective date of this amendatory Act of the 93rd General Assembly until the Legislative Ethics Commission first meets, the requirements of this Section may be waived in writing by the appropriate ultimate jurisdictional authority. The waiver shall be granted upon a showing that the prospective employment or relationship did not affect the decisions referred to in sections (a) and (b).

(d) This Section applies only to persons who terminate an affected position on or after the effective date of this amendatory Act of the 93rd General Assembly.

(a) No former State employee may, within a period of one year immediately after termination of State employment, knowingly accept employment or receive compensation or fees for services from an employer if the employee, during the year immediately preceding termination of State employment, and on behalf of the State or State agency, negotiated in whole or in part one or more contracts with that employer aggregating \$25,000 or more.

(b) The requirements of this Section may be waived by the appropriate ultimate jurisdictional authority of the former State employee if that ultimate jurisdictional authority finds in writing that the State's negotiations and decisions regarding the procurement of the contract or contracts were not materially affected by any potential for employment of that employee by the employer.

(e) This Section applies only to persons who terminate an affected position on or after the effective date of this Act. (Source: 93HB3412enr.)

(93 HB3412enr. Sec. 5-50 new)

Sec. 5-50. Ex parte communications; special government agents.

(a) This Section applies to ex parte communications made to any agency listed in subsection (e).

(b) "Ex parte communication" means any written or oral communication by any person that imparts or requests material information or makes a material argument regarding potential action concerning regulatory, quasi-adjudicatory, or licensing matters pending before or under consideration by the agency. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as format, the number of copies required, the manner of filing, and the status of a matter; and (iii) statements made by a State employee of the agency to the agency head or other employees of that agency.

(b-5) An ex parte communication received by an agency, agency head, or other agency employee from an interested party or his or her official representative or attorney shall promptly be memorialized and made a part of the record.

(c) An ex parte communication received by any agency, agency head, or other agency employee, other than an ex parte communication described in subsection (b-5), shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication be promptly made a part of the record. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, all responses made, the identity and job title of the person making each response, the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) "Interested party" means a person or entity whose rights, privileges, or interests are the subject of or are directly affected by a regulatory, quasi-adjudicatory, or licensing matter.

(e) This Section applies to the following agencies:

Executive Ethics Commission

Illinois Commerce Commission

Educational Labor Relations Board

State Board of Elections

Illinois Gaming Board

Health Facilities Planning Board

Industrial Commission

Illinois Labor Relations Board

Illinois Liquor Control Commission

Pollution Control Board

Property Tax Appeal Board

Illinois Racing Board

Illinois Purchased Care Review Board

Department of State Police Merit Board

Motor Vehicle Review Board

Prisoner Review Board

Civil Service Commission

Personnel Review Board for the Treasurer

Merit Commission for the Secretary of State

Merit Commission for the Office of the Comptroller

Court of Claims

Board of Review of the Department

of Employment Security

Department of Professional Regulation and

licensing boards under the Department

Department of Public Health and licensing boards

under the Department

Office of Banks and Real Estate

and licensing boards under the Office

(f) Any person who fails to (i) report an ex parte communication to an ethics officer, (ii) make information part of the record, or (iii) make a filing with the Executive Ethics Commission as required by this Section or as required by Section 5-165 of the Illinois Administrative Procedure Act violates this Act.

(93 HB3412enr. Sec. 5-55 new)

Sec. 5-55. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, a person, his or her spouse, and any immediate family member living with that person is ineligible to serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor if (i) that person is entitled to receive more than 7 1/2% of the total distributable income under a State contract other than an employment contract or (ii) that person together with his or her spouse and immediate family members living with that person are entitled to receive more than 15% in the aggregate of the total distributable income under a State contract other than an employment contract; except that this restriction does not apply to any of the following:

- (1) a person, his or her spouse, or his or her immediate family member living with that person, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and
- (2) a person, his or her spouse, or his or her immediate family member living with that person,

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who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

(93 HB3412enr. Art. 10 heading new)

ARTICLE 10
GIFT BAN

(93 HB3412enr. Sec. 10-10 new)

Sec. 10-10. Gift ban. Except as otherwise provided in this Article, no officer, member, or State employee shall intentionally solicit or accept any gift from any prohibited source or in violation of any federal or State statute, rule, or regulation. This ban applies to and includes the spouse of and immediate family living with the officer, member, or State employee. No prohibited source shall intentionally offer or make a gift that violates this Section.

(93 HB3412enr. Sec. 10-15 new)

Sec. 10-15. Gift ban; exceptions. The restriction in Section 10-10 does not apply to the following:

(1) Opportunities, benefits, and services that are available on the same conditions as for the general public.

(2) Anything for which the officer, member, or State employee pays the market value.

(3) Any (i) contribution that is lawfully made under the Election Code or under this Act or (ii) activities associated with a fundraising event in support of a political organization or candidate.

(4) Educational materials and missions. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(5) Travel expenses for a meeting to discuss State business. This exception may be further defined by rules adopted by the appropriate ethics commission or by the Auditor General for the Auditor General and employees of the Office of the Auditor General.

(6) A gift from a relative, meaning those people related to the individual as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister, and including the father, mother, grandfather, or grandmother of the individual's spouse and the individual's fiance or fiancée.

(7) Anything provided by an individual on the basis of a personal friendship unless the member, officer, or employee has reason to believe that, under the circumstances, the gift was provided because of the official position or employment of the member, officer, or employee and not because of the personal friendship.

In determining whether a gift is provided on the basis of personal friendship, the member, officer, or employee shall consider the circumstances under which the gift was offered, such as:

(i) the history of the relationship between the individual giving the gift and the recipient of the gift, including any previous exchange of gifts between those individuals;

(ii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift personally paid for the gift or sought a tax deduction or business reimbursement for the gift; and

(iii) whether to the actual knowledge of the member, officer, or employee the individual who gave the gift also at the same time gave the same or similar gifts to other members, officers, or employees.

(8) Food or refreshments not exceeding \$75 per person in value on a single calendar day; provided that the food or refreshments are (i) consumed on the premises from which they were purchased or prepared or (ii) catered. For the purposes of this Section, "catered" means food or refreshments that are purchased ready to eat and delivered by any means.

(9) Food, refreshments, lodging, transportation, and other benefits resulting from the outside business or employment activities (or outside activities that are not connected to the duties of the officer, member, or employee as an office holder or employee) of the officer, member, or employee, or the spouse of the officer, member, or employee, if the benefits have not been offered or enhanced because of the official position or employment of the officer, member, or employee, and are customarily provided to others in similar circumstances.

(10) Intra-governmental and inter-governmental gifts. For the purpose of this Act, "intra-governmental gift" means any gift given to a member, officer, or employee of a State agency from another member, officer, or employee of the same State agency; and "inter-governmental gift" means any gift given to a member, officer, or employee of a State agency, by a member, officer, or employee of another State agency, of a federal agency, or of any governmental entity.

(11) Bequests, inheritances, and other transfers at death.

(12) Any item or items from any one prohibited source during any calendar year having a cumulative total value of less than \$100.

Each of the exceptions listed in this Section is mutually exclusive and independent of one another.

(93 HB3412enr. Sec. 10-30 new)

Sec. 10-30. Gift ban; disposition of gifts. A member, officer, or employee does not violate this Act if the member, officer, or employee promptly takes reasonable action to return the prohibited gift to its source or gives the gift or an amount equal to its value to an appropriate charity that is exempt from income taxation under Section 501 (c)(3) of the Internal Revenue Code of 1986, as now or hereafter amended, renumbered, or succeeded.

(93 HB3412enr. Sec. 10-40 new)

Sec. 10-40. Gift ban; further restrictions. A State agency may adopt or maintain policies that are more restrictive than those set forth in this Article and may continue to follow any existing policies, statutes, or regulations that are more restrictive or are in addition to those set forth in this Article.

(93 HB3412enr. Art. 15, Sec. 15-10)

Section 15-10. Protected activity. An officer, a member, a State employee, or a State agency shall not take any retaliatory action against a State employee because the State employee does any of the following:

(1) Discloses or threatens to disclose to a supervisor or to a public body an activity, policy, or practice of any officer, member, State agency, or other State employee that the State employee reasonably believes is in violation of a law, rule, or regulation.

(2) Provides information to or testifies before any public body conducting an investigation, hearing, or inquiry into any violation of a law, rule, or regulation by any officer, member, State agency, or other State employee.

(3) Assists or participates in a proceeding to enforce the provisions of this Act. (Source: 93HB3412enr.)

(93 HB3412enr. Art. 15, Sec. 15-20)

Section 15-20. Burden of proof. A violation of this Article may be established only upon a finding that (i) the State employee engaged in conduct described in Section 15-10 and (ii) that conduct was a contributing factor in the retaliatory action alleged by the State employee. It is not a violation, however, if it is demonstrated by clear and convincing evidence that the officer, member, other State employee, or State agency would have taken the same unfavorable personnel action in the absence of that conduct. (Source: 93HB3412enr.)

(93 HB3412enr. Art. 15, Sec. 15-25)

Sec. 15-25. Remedies. The State employee may be awarded all remedies necessary to make the State employee whole and to prevent future violations of this Article. Remedies imposed by the court may include, but are not limited to, all of the following:

(1) reinstatement of the employee to either the same position held before the retaliatory action or to an equivalent position;

(2) 2 times the amount of back pay;

(3) interest on the back pay; ~~and~~

(4) the reinstatement of full fringe benefits and seniority rights; and

(5) the payment of reasonable costs and attorneys' fees. (Source: 93HB3412enr.)

(93 HB3412enr. Art. 15, Sec. 15-40 new)

Sec. 15-40. Posting. All officers, members, and State agencies shall conspicuously display notices of State employee protection under this Act.

(93 HB3412enr. Art. 20 heading new)

ARTICLE 20

EXECUTIVE ETHICS COMMISSION AND

EXECUTIVE INSPECTORS GENERAL

(93 HB3412enr. Sec. 20-5 new)

Sec. 20-5. Executive Ethics Commission.

(a) The Executive Ethics Commission is created.

(b) The Executive Ethics Commission shall consist of 9 commissioners. The Governor shall appoint 5 commissioners, and the Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint one commissioner. Appointments shall be made by and with the advice and consent of the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon

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by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of commissioner, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of commissioner shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate. No more than 5 commissioners may be of the same political party.

The terms of the initial commissioners shall commence upon qualification. Four initial appointees of the Governor, as designated by the Governor, shall serve terms running through June 30, 2007. One initial appointee of the Governor, as designated by the Governor, and the initial appointees of the Attorney General, Secretary of State, Comptroller, and Treasurer shall serve terms running through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and shall appoint commissioners from the general public. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is related to the appointing authority, or (iv) is a State officer or employee.

(d) The Executive Ethics Commission shall have jurisdiction over all officers and employees of State agencies other than the General Assembly, the Senate, the House of Representatives, the President and Minority Leader of the Senate, the Speaker and Minority Leader of the House of Representatives, the Senate Operations Commission, the legislative support services agencies, and the Office of the Auditor General. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Executive Ethics Commission must meet, either in person or by other technological means, at least monthly and as often as necessary. At the first meeting of the Executive Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive compensation in an amount equal to the compensation of members of the State Board of Elections and may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner or employee of the Executive Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Executive Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Executive Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

(93 HB3412enr. Sec. 20-10 new)

Sec. 20-10. Offices of Executive Inspectors General.

(a) Five independent Offices of the Executive Inspector General are created, one each for the Governor, the Attorney General, the Secretary of State, the Comptroller, and the Treasurer. Each Office shall be under the direction and supervision of an Executive Inspector General and shall be a fully independent office with separate appropriations.

(b) The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer shall each appoint an Executive Inspector General, without regard to political affiliation and solely on the basis of integrity and demonstrated ability. Appointments shall be made by and with the advice and consent of

the Senate by three-fifths of the elected members concurring by record vote. Any nomination not acted upon by the Senate within 60 session days of the receipt thereof shall be deemed to have received the advice and consent of the Senate. If, during a recess of the Senate, there is a vacancy in an office of Executive Inspector General, the appointing authority shall make a temporary appointment until the next meeting of the Senate when the appointing authority shall make a nomination to fill that office. No person rejected for an office of Executive Inspector General shall, except by the Senate's request, be nominated again for that office at the same session of the Senate or be appointed to that office during a recess of that Senate.

Nothing in this Article precludes the appointment by the Governor, Attorney General, Secretary of State, Comptroller, or Treasurer of any other inspector general required or permitted by law. The Governor, Attorney General, Secretary of State, Comptroller, and Treasurer each may appoint an existing inspector general as the Executive Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Executive Inspector General required by this Article. An appointing authority may not appoint a relative as an Executive Inspector General.

Each Executive Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The term of each initial Executive Inspector General shall commence upon qualification and shall run through June 30, 2008. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial term, each Executive Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. An Executive Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the Executive Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Executive Inspector General appointed by the Attorney General shall have jurisdiction over the Attorney General and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Attorney General. The Executive Inspector General appointed by the Secretary of State shall have jurisdiction over the Secretary of State and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Secretary of State. The Executive Inspector General appointed by the Comptroller shall have jurisdiction over the Comptroller and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Comptroller. The Executive Inspector General appointed by the Treasurer shall have jurisdiction over the Treasurer and all officers and employees of, and vendors and others doing business with, State agencies within the jurisdiction of the Treasurer. The Executive Inspector General appointed by the Governor shall have jurisdiction over the Governor, the Lieutenant Governor, and all officers and employees of, and vendors and others doing business with, executive branch State agencies under the jurisdiction of the Executive Ethics Commission and not within the jurisdiction of the Attorney General, the Secretary of State, the Comptroller, or the Treasurer.

The jurisdiction of each Executive Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The minimum compensation for each Executive Inspector General shall be determined by the Executive Ethics Commission. The actual compensation for each Executive Inspector General shall be determined by the appointing executive branch constitutional officer and must be at or above the minimum compensation level set by the Executive Ethics Commission. Subject to Section 20-45 of this Act, each Executive Inspector General has full authority to organize his or her Office of the Executive Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit. A separate appropriation shall be made for each Office of Executive Inspector General.

(e) No Executive Inspector General or employee of the Office of the Executive Inspector General

may, during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Executive Inspector General or employee of the Office of the Executive Inspector General may, for one year after the termination of his or her appointment or employment:

(1) become a candidate for any elective office;

(2) hold any elected public office; or

(3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Executive Ethics Commission.

(f) An Executive Inspector General may be removed only for cause and may be removed only by the appointing constitutional officer. At the time of the removal, the appointing constitutional officer must report to the Executive Ethics Commission the justification for the removal.

(93 HB3412enr. Sec. 20-15 new)

Sec. 20-15. Duties of the Executive Ethics Commission. In addition to duties otherwise assigned by law, the Executive Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Executive Inspectors General. It is declared to be in the public interest, safety, and welfare that the Commission adopt emergency rules under the Illinois Administrative Procedure Act to initially perform its duties under this subsection.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by an Executive Inspector General and not upon its own prerogative, but may appoint special Executive Inspectors General as provided in Section 20-21. Any other allegations of misconduct received by the Commission from a person other than an Executive Inspector General shall be referred to the Office of the appropriate Executive Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Executive Inspectors General as provided in Section 20-21.

(93 HB3412enr. Sec. 20-20 new)

Sec. 20-20. Duties of the Executive Inspectors General. In addition to duties otherwise assigned by law, each Executive Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. The Executive Inspector General may receive information through the Office of any Executive Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Executive Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Executive Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Executive Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas to compel the attendance of witnesses for the purposes of testimony and

production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 20-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Executive Inspector General with the Executive Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Executive Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Executive Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics training.

(93 HB3412enr. Sec. 20-21 new)

Sec. 20-21. Special Executive Inspectors General.

(a) The Executive Ethics Commission, on its own initiative and by majority vote, may appoint special Executive Inspectors General (i) to investigate alleged violations of this Act if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 20-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning an Executive Inspector General or employee of an Office of an Executive Inspector General and to investigate those allegations.

(b) A special Executive Inspector General must have the same qualifications as an Executive Inspector General appointed under Section 20-10.

(c) The Commission's appointment of a special Executive Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Executive Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as an Executive Inspector General appointed under Section 20-10.

(e) A special Executive Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Executive Inspector General and its recommendations, if any, to the appointing authority of the appropriate Executive Inspector General.

(93 HB3412enr. Sec. 20-23 new)

Sec. 20-23. Ethics Officers. Each officer and the head of each State agency under the jurisdiction of the Executive Ethics Commission shall designate an Ethics Officer for the office or State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the appropriate Executive Inspector General and between the State agency and the Executive Ethics Commission;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Executive Ethics Commission.

(93 HB3412enr. Sec. 20-35 new)

Sec. 20-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(93 HB3412enr. Sec. 20-40 new)

Sec. 20-40. Collective bargaining agreements. Any investigation or inquiry by an Executive Inspector General or any agent or representative of an Executive Inspector General must be conducted with awareness of the provisions of a collective bargaining agreement that applies to the employees of the relevant State agency and with an awareness of the rights of the employees as set forth by State and federal law and applicable judicial decisions. Any recommendation for discipline or any action taken against any State employee pursuant to this Act must comply with the provisions of the collective bargaining agreement that applies to the State employee.

(93 HB3412enr. Sec. 20-45 new)

Sec. 20-45. Standing; representation.

(a) Only an Executive Inspector General may bring actions before the Executive Ethics Commission.

(b) The Attorney General shall represent an Executive Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Executive Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the appropriate Office of the Executive Inspector General.

(93 HB3412enr. Sec. 20-50 new)

Sec. 20-50. Investigation reports; complaint procedure.

(a) If an Executive Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

(1) A description of any allegations or other information received by the Executive Inspector General pertinent to the investigation.

(2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Executive Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Executive Inspector General desires to file a petition for leave to file a complaint, the Executive Inspector General shall notify the Commission and the Attorney General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Executive Inspector General, represented by the Attorney General, may file with the Executive Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Executive Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the

decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Executive Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(93 HB3412enr. Sec. 20-55 new)

Sec. 20-55. Decisions; recommendations.

(a) All decisions of the Executive Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the appropriate Executive Inspector General. The Executive Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Executive Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Executive Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Executive Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Executive Ethics Commission and the appropriate Executive Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(93 HB3412enr. Sec. 20-60 new)

Sec. 20-60. Appeals. A decision of the Executive Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Executive Ethics Commission are final and not subject to review either administratively or judicially.

(93 HB3412enr. Sec. 20-65 new)

Sec. 20-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the appropriate Executive Inspector General shall notify the Executive Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

(93 HB3412enr. Sec. 20-70 new)

Sec. 20-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of an Executive Inspector General, including any inspector general serving in any State agency under the jurisdiction of that Executive Inspector General, to cooperate with the Executive Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Executive Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(93 HB3412enr. Sec. 20-80 new)

Sec. 20-80. Referrals of investigations. If an Executive Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Executive Ethics

Commission, that Executive Inspector General shall refer the reported allegations to the appropriate Inspector General, appropriate ethics commission, or other appropriate body. If an Executive Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Executive Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

(93 HB3412enr. Sec. 20-85 new)

Sec. 20-85. Quarterly reports by Executive Inspector General. Each Executive Inspector General shall submit quarterly reports to the appropriate executive branch constitutional officer and the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of allegations received since the date of the last report;
- (2) the number of investigations initiated since the date of the last report;
- (3) the number of investigations concluded since the date of the last report;
- (4) the number of investigations pending as of the reporting date;
- (5) the number of complaints forwarded to the Attorney General since the date of the last report;

and

(6) the number of actions filed with the Executive Ethics Commission since the date of the last report and the number of actions pending before the Executive Ethics Commission as of the reporting date.

(93 HB3412enr. Sec. 20-86 new)

Sec. 20-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Executive Ethics Commission, on dates determined by the Executive Ethics Commission, indicating:

- (1) the number of complaints received from each of the Executive Inspectors General since the date of the last report;
- (2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and
- (3) the number of complaints still under review by the Attorney General.

(93 HB3412enr. Sec. 20-90 new)

Sec. 20-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to an Executive Inspector General or the Executive Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 20-50(c), commissioners, employees, and agents of the Executive Ethics Commission, the Executive Inspectors General, and employees and agents of each Office of an Executive Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(93 HB3412enr. Sec. 20-95 new)

Sec. 20-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to an Executive Inspector General and any pleadings and related documents brought before the Executive Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Executive Ethics Commission does not make a finding of a violation of this Act. If the Executive Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Executive Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is otherwise exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 20-5 and 20-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of an Executive Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as

necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdiction authority, (iii) to the Executive Ethics Commission; or (iv) to another Inspector General appointed pursuant to this Act.

(93 HB3412enr. Art. 25 heading new)

ARTICLE 25

LEGISLATIVE ETHICS COMMISSION AND

LEGISLATIVE INSPECTOR GENERAL

(93 HB3412enr. Sec. 25-5 new)

Sec. 25-5. Legislative Ethics Commission.

(a) The Legislative Ethics Commission is created.

(b) The Legislative Ethics Commission shall consist of 8 commissioners appointed 2 each by the President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives.

The terms of the initial commissioners shall commence upon qualification. Each appointing authority shall designate one appointee who shall serve for a 2-year term running through June 30, 2005. Each appointing authority shall designate one appointee who shall serve for a 4-year term running through June 30, 2007. The initial appointments shall be made within 60 days after the effective date of this Act.

After the initial terms, commissioners shall serve for 4-year terms commencing on July 1 of the year of appointment and running through June 30 of the fourth following year. Commissioners may be reappointed to one or more subsequent terms.

Vacancies occurring other than at the end of a term shall be filled by the appointing authority only for the balance of the term of the commissioner whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The appointing authorities shall appoint commissioners who have experience holding governmental office or employment and may appoint commissioners who are members of the General Assembly as well as commissioners from the general public. A commissioner who is a member of the General Assembly must recuse himself or herself from participating in any matter relating to any investigation or proceeding in which he or she is the subject. A person is not eligible to serve as a commissioner if that person (i) has been convicted of a felony or a crime of dishonesty or moral turpitude, (ii) is, or was within the preceding 12 months, engaged in activities that require registration under the Lobbyist Registration Act, (iii) is a relative of the appointing authority, or (iv) is a State officer or employee other than a member of the General Assembly.

(d) The Legislative Ethics Commission shall have jurisdiction over members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services. The jurisdiction of the Commission is limited to matters arising under this Act.

(e) The Legislative Ethics Commission must meet, either in person or by other technological means, monthly or as often as necessary. At the first meeting of the Legislative Ethics Commission, the commissioners shall choose from their number a chairperson and other officers that they deem appropriate. The terms of officers shall be for 2 years commencing July 1 and running through June 30 of the second following year. Meetings shall be held at the call of the chairperson or any 3 commissioners. Official action by the Commission shall require the affirmative vote of 5 commissioners, and a quorum shall consist of 5 commissioners. Commissioners shall receive no compensation but may be reimbursed for their reasonable expenses actually incurred in the performance of their duties.

(f) No commissioner, other than a commissioner who is a member of the General Assembly, or employee of the Legislative Ethics Commission may during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

(g) An appointing authority may remove a commissioner only for cause.

(h) The Legislative Ethics Commission shall appoint an Executive Director. The compensation of the Executive Director shall be as determined by the Commission or by the Compensation Review Board, whichever amount is higher. The Executive Director of the Legislative Ethics Commission may employ and determine the compensation of staff, as appropriations permit.

[November 20, 2003]

(93 HB3412enr. Sec. 25-10 new)

Sec. 25-10. Office of Legislative Inspector General.

(a) The independent Office of the Legislative Inspector General is created. The Office shall be under the direction and supervision of the Legislative Inspector General and shall be a fully independent office with its own appropriation.

(b) The Legislative Inspector General shall be appointed without regard to political affiliation and solely on the basis of integrity and demonstrated ability. The Legislative Ethics Commission shall diligently search out qualified candidates for Legislative Inspector General and shall make recommendations to the General Assembly.

The Legislative Inspector General shall be appointed by a joint resolution of the Senate and the House of Representatives, which may specify the date on which the appointment takes effect. A joint resolution, or other document as may be specified by the Joint Rules of the General Assembly, appointing the Legislative Inspector General must be certified by the Speaker of the House of Representatives and the President of the Senate as having been adopted by the affirmative vote of three-fifths of the members elected to each house, respectively, and be filed with the Secretary of State. The appointment of the Legislative Inspector General takes effect on the day the appointment is completed by the General Assembly, unless the appointment specifies a later date on which it is to become effective.

The Legislative Inspector General shall have the following qualifications:

(1) has not been convicted of any felony under the laws of this State, another State, or the United States;

(2) has earned a baccalaureate degree from an institution of higher education; and

(3) has 5 or more years of cumulative service (A) with a federal, State, or local law enforcement agency, at least 2 years of which have been in a progressive investigatory capacity; (B) as a federal, State, or local prosecutor; (C) as a senior manager or executive of a federal, State, or local agency; (D) as a member, an officer, or a State or federal judge; or (E) representing any combination of (A) through (D).

The Legislative Inspector General may not be a relative of a commissioner.

The term of the initial Legislative Inspector General shall commence upon qualification and shall run through June 30, 2008.

After the initial term, the Legislative Inspector General shall serve for 5-year terms commencing on July 1 of the year of appointment and running through June 30 of the fifth following year. The Legislative Inspector General may be reappointed to one or more subsequent terms.

A vacancy occurring other than at the end of a term shall be filled in the same manner as an appointment only for the balance of the term of the Legislative Inspector General whose office is vacant.

Terms shall run regardless of whether the position is filled.

(c) The Legislative Inspector General shall have jurisdiction over the members of the General Assembly and all State employees whose ultimate jurisdictional authority is (i) a legislative leader, (ii) the Senate Operations Commission, or (iii) the Joint Committee on Legislative Support Services.

The jurisdiction of each Legislative Inspector General is to investigate allegations of fraud, waste, abuse, mismanagement, misconduct, nonfeasance, misfeasance, malfeasance, or violations of this Act or violations of other related laws and rules.

(d) The compensation of the Legislative Inspector General shall be the greater of an amount (i) determined by the Commission or (ii) by joint resolution of the General Assembly passed by a majority of members elected in each chamber. Subject to Section 25-45 of this Act, the Legislative Inspector General has full authority to organize the Office of the Legislative Inspector General, including the employment and determination of the compensation of staff, such as deputies, assistants, and other employees, as appropriations permit.

(e) No Legislative Inspector General or employee of the Office of the Legislative Inspector General may, during his or her term of appointment or employment:

(1) become a candidate for any elective office;

(2) hold any other elected or appointed public office except for appointments on governmental advisory boards or study commissions or as otherwise expressly authorized by law;

(3) be actively involved in the affairs of any political party or political organization; or

(4) actively participate in any campaign for any elective office.

In this subsection an appointed public office means a position authorized by law that is filled by an appointing authority as provided by law and does not include employment by hiring in the ordinary course of business.

(e-1) No Legislative Inspector General or employee of the Office of the Legislative Inspector General

may, for one year after the termination of his or her appointment or employment:

- (1) become a candidate for any elective office;
- (2) hold any elected public office; or
- (3) hold any appointed State, county, or local judicial office.

(e-2) The requirements of item (3) of subsection (e-1) may be waived by the Legislative Ethics Commission.

(f) The Commission may remove the Legislative Inspector General only for cause. At the time of the removal, the Commission must report to the General Assembly the justification for the removal.

(93 HB3412enr. Sec. 25-15 new)

Sec. 25-15. Duties of the Legislative Ethics Commission. In addition to duties otherwise assigned by law, the Legislative Ethics Commission shall have the following duties:

(1) To promulgate rules governing the performance of its duties and the exercise of its powers and governing the investigations of the Legislative Inspector General.

(2) To conduct administrative hearings and rule on matters brought before the Commission only upon the receipt of pleadings filed by the Legislative Inspector General and not upon its own prerogative, but may appoint special Legislative Inspectors General as provided in Section 25-21. Any other allegations of misconduct received by the Commission from a person other than the Legislative Inspector General shall be referred to the Office of the Legislative Inspector General.

(3) To prepare and publish manuals and guides and, working with the Office of the Attorney General, oversee training of employees under its jurisdiction that explains their duties.

(4) To prepare public information materials to facilitate compliance, implementation, and enforcement of this Act.

(5) To submit reports as required by this Act.

(6) To the extent authorized by this Act, to make rulings, issue recommendations, and impose administrative fines, if appropriate, in connection with the implementation and interpretation of this Act. The powers and duties of the Commission are limited to matters clearly within the purview of this Act.

(7) To issue subpoenas with respect to matters pending before the Commission, subject to the provisions of this Article and in the discretion of the Commission, to compel the attendance of witnesses for purposes of testimony and the production of documents and other items for inspection and copying.

(8) To appoint special Legislative Inspectors General as provided in Section 25-21.

(93 HB3412enr. Sec. 25-20 new)

Sec. 25-20. Duties of the Legislative Inspector General. In addition to duties otherwise assigned by law, the Legislative Inspector General shall have the following duties:

(1) To receive and investigate allegations of violations of this Act. The Legislative Inspector General may receive information through the Office of the Legislative Inspector General or through an ethics commission. An investigation may be conducted only in response to information reported to the Legislative Inspector General as provided in this Section and not upon his or her own prerogative. Allegations may not be made anonymously. An investigation may not be initiated more than one year after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. The Legislative Inspector General shall have the discretion to determine the appropriate means of investigation as permitted by law.

(2) To request information relating to an investigation from any person when the Legislative Inspector General deems that information necessary in conducting an investigation.

(3) To issue subpoenas, with the advance approval of the Commission, to compel the attendance of witnesses for the purposes of testimony and production of documents and other items for inspection and copying and to make service of those subpoenas and subpoenas issued under item (7) of Section 25-15.

(4) To submit reports as required by this Act.

(5) To file pleadings in the name of the Legislative Inspector General with the Legislative Ethics Commission, through the Attorney General, as provided in this Article if the Attorney General finds that reasonable cause exists to believe that a violation has occurred.

(6) To assist and coordinate the ethics officers for State agencies under the jurisdiction of the Legislative Inspector General and to work with those ethics officers.

(7) To participate in or conduct, when appropriate, multi-jurisdictional investigations.

(8) To request, as the Legislative Inspector General deems appropriate, from ethics officers of State agencies under his or her jurisdiction, reports or information on (i) the content of a State agency's ethics training program and (ii) the percentage of new officers and employees who have completed ethics

training.

(93 HB3412enr. Sec. 25-21 new)

Sec. 25-21. Special Legislative Inspectors General.

(a) The Legislative Ethics Commission, on its own initiative and by majority vote, may appoint special Legislative Inspectors General (i) to investigate alleged violations of this Act, if an investigation by the Inspector General was not concluded within 6 months after its initiation, where the Commission finds that the Inspector General's reasons under Section 25-65 for failing to complete the investigation are insufficient and (ii) to accept referrals from the Commission of allegations made pursuant to this Act concerning the Legislative Inspector General or an employee of the Office of the Legislative Inspector General and to investigate those allegations.

(b) A special Legislative Inspector General must have the same qualifications as the Legislative Inspector General appointed under Section 25-10.

(c) The Commission's appointment of a special Legislative Inspector General must be in writing and must specify the duration and purpose of the appointment.

(d) A special Legislative Inspector General shall have the same powers and duties with respect to the purpose of his or her appointment as the Legislative Inspector General appointed under Section 25-10.

(e) A special Legislative Inspector General shall report the findings of his or her investigation to the Commission.

(f) The Commission may report the findings of a special Legislative Inspector General and its recommendations, if any, to the General Assembly.

(93 HB3412enr. Sec. 25-23 new)

Sec. 25-23. Ethics Officers. The President and Minority Leader of the Senate and the Speaker and Minority Leader of the House of Representatives shall each appoint an ethics officer for the members and employees of his or her legislative caucus. No later than January 1, 2004, the head of each State agency under the jurisdiction of the Legislative Ethics Commission, other than the General Assembly, shall designate an ethics officer for the State agency. Ethics Officers shall:

(1) act as liaisons between the State agency and the Legislative Inspector General and between the State agency and the Legislative Ethics Commission;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, wherever possible, upon legal precedent in court decisions, opinions of the Attorney General, and the findings and opinions of the Legislative Ethics Commission.

(93 HB3412enr. Sec. 25-35 new)

Sec. 25-35. Administrative subpoena; compliance. A person duly subpoenaed for testimony, documents, or other items who neglects or refuses to testify or produce documents or other items under the requirements of the subpoena shall be subject to punishment as may be determined by a court of competent jurisdiction. Nothing in this Section limits or alters a person's existing rights or protections under State or federal law.

(93 HB3412enr. Sec. 25-45 new)

Sec. 25-45. Standing; representation.

(a) Only the Legislative Inspector General may bring actions before the Legislative Ethics Commission.

(b) The Attorney General shall represent the Legislative Inspector General in all proceedings before the Commission. Whenever the Attorney General is sick or absent, or unable to attend, or is interested in any matter or proceeding under this Act, upon the filing of a petition under seal by any person with standing, the Supreme Court (or any other court of competent jurisdiction as designated and determined by rule of the Supreme Court) may appoint some competent attorney to prosecute or defend that matter or proceeding, and the attorney so appointed shall have the same power and authority in relation to that matter or proceeding as the Attorney General would have had if present and attending to the same.

(c) Attorneys representing an Inspector General in proceedings before the Legislative Ethics Commission, except an attorney appointed under subsection (b), shall be appointed or retained by the Attorney General, shall be under the supervision, direction, and control of the Attorney General, and shall serve at the pleasure of the Attorney General. The compensation of any attorneys appointed or retained in accordance with this subsection or subsection (b) shall be paid by the Office of the Legislative Inspector General.

(93 HB3412enr. Sec. 25-50 new)

Sec. 25-50. Investigation reports; complaint procedure.

(a) If the Legislative Inspector General, upon the conclusion of an investigation, determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General shall issue a summary report of the investigation. The report shall be delivered to the appropriate ultimate jurisdictional authority and to the head of each State agency affected by or involved in the investigation, if appropriate.

(b) The summary report of the investigation shall include the following:

(1) A description of any allegations or other information received by the Legislative Inspector General pertinent to the investigation.

(2) A description of any alleged misconduct discovered in the course of the investigation.

(3) Recommendations for any corrective or disciplinary action to be taken in response to any alleged misconduct described in the report, including but not limited to discharge.

(4) Other information the Legislative Inspector General deems relevant to the investigation or resulting recommendations.

(c) Not less than 30 days after delivery of the summary report of an investigation under subsection (a), if the Legislative Inspector General desires to file a petition for leave to file a complaint, the Legislative Inspector General shall notify the Commission and the Attorney General. If the Attorney General determines that reasonable cause exists to believe that a violation has occurred, then the Legislative Inspector General, represented by the Attorney General, may file with the Legislative Ethics Commission a petition for leave to file a complaint. The petition shall set forth the alleged violation and the grounds that exist to support the petition. The petition for leave to file a complaint must be filed with the Commission within 18 months after the most recent act of the alleged violation or of a series of alleged violations except where there is reasonable cause to believe that fraudulent concealment has occurred. To constitute fraudulent concealment sufficient to toll this limitations period, there must be an affirmative act or representation calculated to prevent discovery of the fact that a violation has occurred. If a petition for leave to file a complaint is not filed with the Commission within 6 months after notice by the Inspector General to the Commission and the Attorney General, then the Commission may set a meeting of the Commission at which the Attorney General shall appear and provide a status report to the Commission.

(d) A copy of the petition must be served on all respondents named in the complaint and on each respondent's ultimate jurisdictional authority in the same manner as process is served under the Code of Civil Procedure.

(e) A respondent may file objections to the petition for leave to file a complaint within 30 days after notice of the petition has been served on the respondent.

(f) The Commission shall meet, either in person or by telephone, in a closed session to review the sufficiency of the complaint. If the Commission finds that complaint is sufficient, the Commission shall grant the petition for leave to file the complaint. The Commission shall issue notice to the Legislative Inspector General and all respondents of the Commission's ruling on the sufficiency of the complaint. If the complaint is deemed to sufficiently allege a violation of this Act, then the Commission shall notify the parties and shall include a hearing date scheduled within 4 weeks after the date of the notice, unless all of the parties consent to a later date. If the complaint is deemed not to sufficiently allege a violation, then the Commission shall send by certified mail, return receipt requested, a notice to the parties of the decision to dismiss the complaint.

(g) On the scheduled date the Commission shall conduct a closed meeting, either in person or, if the parties consent, by telephone, on the complaint and allow all parties the opportunity to present testimony and evidence. All such proceedings shall be transcribed.

(h) Within an appropriate time limit set by rules of the Legislative Ethics Commission, the Commission shall (i) dismiss the complaint or (ii) issue a recommendation of discipline to the respondent and the respondent's ultimate jurisdictional authority or impose an administrative fine upon the respondent, or both.

(i) The proceedings on any complaint filed with the Commission shall be conducted pursuant to rules promulgated by the Commission.

(j) The Commission may designate hearing officers to conduct proceedings as determined by rule of the Commission.

(k) In all proceedings before the Commission, the standard of proof is by a preponderance of the evidence.

(l) When the Inspector General concludes that there is insufficient evidence that a violation has occurred, the Inspector General shall close the investigation. At the request of the subject of the investigation, the Inspector General shall provide a written statement to the subject of the investigation

and to the Commission of the Inspector General's decision to close the investigation. Closure by the Inspector General does not bar the Inspector General from resuming the investigation if circumstances warrant.

(93 HB3412enr. Sec. 25-55 new)

Sec. 25-55. Decisions; recommendations.

(a) All decisions of the Legislative Ethics Commission must include a description of the alleged misconduct, the decision of the Commission, including any fines levied and any recommendation of discipline, and the reasoning for that decision. All decisions of the Commission shall be delivered to the head of the appropriate State agency, the appropriate ultimate jurisdictional authority, and the Legislative Inspector General. The Legislative Ethics Commission shall promulgate rules for the decision and recommendation process.

(b) If the Legislative Ethics Commission issues a recommendation of discipline to an agency head or ultimate jurisdictional authority, that agency head or ultimate jurisdictional authority must respond to that recommendation in 30 days with a written response to the Legislative Ethics Commission. This response must include any disciplinary action the agency head or ultimate jurisdictional authority has taken with respect to the officer or employee in question. If the agency head or ultimate jurisdictional authority did not take any disciplinary action, or took a different disciplinary action than that recommended by the Legislative Ethics Commission, the agency head or ultimate jurisdictional authority must describe the different action and explain the reasons for the different action in the written response. This response must be served upon the Legislative Ethics Commission and the Legislative Inspector General within the 30-day period and is not exempt from the provisions of the Freedom of Information Act.

(93 HB3412enr. Sec. 25-60 new)

Sec. 25-60. Appeals. A decision of the Legislative Ethics Commission to impose a fine is subject to judicial review under the Administrative Review Law. All other decisions by the Legislative Ethics Commission are final and not subject to review either administratively or judicially.

(93 HB3412enr. Sec. 25-65 new)

Sec. 25-65. Investigations not concluded within 6 months. If any investigation is not concluded within 6 months after its initiation, the Legislative Inspector General shall notify the Legislative Ethics Commission and appropriate ultimate jurisdictional authority of the general nature of the allegation or information giving rise to the investigation and the reasons for failure to complete the investigation within 6 months.

(93 HB3412enr. Sec. 25-70 new)

Sec. 25-70. Cooperation in investigations. It is the duty of every officer and employee under the jurisdiction of the Legislative Inspector General, including any inspector general serving in any State agency under the jurisdiction of the Legislative Inspector General, to cooperate with the Legislative Inspector General in any investigation undertaken pursuant to this Act. Failure to cooperate with an investigation of the Legislative Inspector General is grounds for disciplinary action, including dismissal. Nothing in this Section limits or alters a person's existing rights or privileges under State or federal law.

(93 HB3412enr. Sec. 25-80 new)

Sec. 25-80. Referrals of investigations. If the Legislative Inspector General determines that any alleged misconduct involves any person not subject to the jurisdiction of the Legislative Ethics Commission, the Legislative Inspector General shall refer the reported allegations to the appropriate ethics commission or other appropriate body. If the Legislative Inspector General determines that any alleged misconduct may give rise to criminal penalties, the Legislative Inspector General may refer the allegations regarding that misconduct to the appropriate law enforcement authority.

(93 HB3412enr. Sec. 25-85 new)

Sec. 25-85. Quarterly reports by the Legislative Inspector General. The Legislative Inspector General shall submit quarterly reports to the General Assembly and the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

(1) the number of allegations received since the date of the last report;

(2) the number of investigations initiated since the date of the last report;

(3) the number of investigations concluded since the date of the last report;

(4) the number of investigations pending as of the reporting date;

(5) the number of complaints forwarded to the Attorney General since the date of the last report; and

(6) the number of actions filed with the Legislative Ethics Commission since the date of the last report and the number of actions pending before the Legislative Ethics Commission as of the reporting date.

(93 HB3412enr. Sec. 25-86 new)

Sec. 25-86. Quarterly reports by the Attorney General. The Attorney General shall submit quarterly reports to the Legislative Ethics Commission, on dates determined by the Legislative Ethics Commission, indicating:

(1) the number of complaints received from the Legislative Inspector General since the date of the last report;

(2) the number of complaints for which the Attorney General has determined reasonable cause exists to believe that a violation has occurred since the date of the last report; and

(3) the number of complaints still under review by the Attorney General.

(93 HB3412enr. Sec. 25-90 new)

Sec. 25-90. Confidentiality.

(a) The identity of any individual providing information or reporting any possible or alleged misconduct to the Legislative Inspector General or the Legislative Ethics Commission shall be kept confidential and may not be disclosed without the consent of that individual, unless the individual consents to disclosure of his or her name or disclosure of the individual's identity is otherwise required by law. The confidentiality granted by this subsection does not preclude the disclosure of the identity of a person in any capacity other than as the source of an allegation.

(b) Subject to the provisions of Section 25-50(c), commissioners, employees, and agents of the Legislative Ethics Commission, the Legislative Inspector General, and employees and agents of the Office of the Legislative Inspector General shall keep confidential and shall not disclose information exempted from disclosure under the Freedom of Information Act or by this Act.

(93 HB3412enr. Sec. 25-95 new)

Sec. 25-95. Exemptions.

(a) Documents generated by an ethics officer under this Act, except Section 5-50, are exempt from the provisions of the Freedom of Information Act.

(b) Any allegations and related documents submitted to the Legislative Inspector General and any pleadings and related documents brought before the Legislative Ethics Commission are exempt from the provisions of the Freedom of Information Act so long as the Legislative Ethics Commission does not make a finding of a violation of this Act. If the Legislative Ethics Commission finds that a violation has occurred, the entire record of proceedings before the Commission, the decision and recommendation, and the mandatory report from the agency head or ultimate jurisdictional authority to the Legislative Ethics Commission are not exempt from the provisions of the Freedom of Information Act but information contained therein that is exempt from the Freedom of Information Act must be redacted before disclosure as provided in Section 8 of the Freedom of Information Act.

(c) Meetings of the Commission under Sections 25-5 and 25-15 of this Act are exempt from the provisions of the Open Meetings Act.

(d) Unless otherwise provided in this Act, all investigatory files and reports of the Office of the Legislative Inspector General, other than quarterly reports, are confidential, are exempt from disclosure under the Freedom of Information Act, and shall not be divulged to any person or agency, except as necessary (i) to the appropriate law enforcement authority if the matter is referred pursuant to this Act, (ii) to the ultimate jurisdiction authority, or (iii) to the Legislative Ethics Commission.

(93 HB3412enr. Art. 30 heading new)

ARTICLE 30 AUDITOR GENERAL

(93 HB3412enr. Sec. 30-5 new)

Sec. 30-5. Appointment of Inspector General.

(a) The Auditor General shall appoint an Inspector General (i) to investigate allegations of violations of Articles 5 and 10 by State officers and employees under his or her jurisdiction and (ii) to perform other duties and exercise other powers assigned to the Inspectors General by this or any other Act. The Inspector General shall be appointed within 6 months after the effective date of this Act.

(b) The Auditor General shall provide by rule for the operation of his or her Inspector General. It is declared to be in the public interest, safety, and welfare that the Auditor General adopt emergency rules under the Illinois Administrative Procedure Act to initially perform his or her duties under this subsection.

(c) The Auditor General may appoint an existing inspector general as the Inspector General required by this Article, provided that such an inspector general is not prohibited by law, rule, jurisdiction, qualification, or interest from serving as the Inspector General required by this Article.

The Auditor General may not appoint a relative as the Inspector General required by this Article.
(93 HB3412enr. Sec. 30-10 new)

Sec. 30-10. Ethics Officer. The Auditor General shall designate an Ethics Officer for the office of the Auditor General. The ethics officer shall:

(1) act as liaison between the Office of the Auditor General and the Inspector General appointed under this Article;

(2) review statements of economic interest and disclosure forms of officers, senior employees, and contract monitors before they are filed with the Secretary of State; and

(3) provide guidance to officers and employees in the interpretation and implementation of this Act, which the officer or employee may in good faith rely upon. Such guidance shall be based, whenever possible, upon legal precedent in court decisions and opinions of the Attorney General.
(93 HB3412enr. Art. 35 heading new)

ARTICLE 35

OTHER INSPECTORS GENERAL WITHIN THE EXECUTIVE BRANCH

Sec. 35-5. Appointment of Inspectors General. Nothing in this Act precludes the appointment by the Governor, the Lieutenant Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer of any inspector general required or permitted by law. Nothing in this Act precludes the Governor, the Attorney General, the Secretary of State, the Comptroller, or the Treasurer from appointing an existing inspector general under his or her jurisdiction to serve simultaneously as an Executive Inspector General. This Act shall be read consistently with all existing State statutes that create inspectors general under the jurisdiction of an executive branch constitutional officer.

(93 HB3412enr. Art. 50, Sec. 50-5)

Sec. 50-5. Penalties.

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.

(b) A person who intentionally violates any provision of Section 5-20, 5-35, 5-50, or 5-55 is guilty of a business offense subject to a fine of at least \$1,001 and up to \$5,000.

(c) A person who intentionally violates any provision of Article 10 is guilty of a business offense and subject to a fine of at least \$1,001 and up to \$5,000.

(d) Any person who intentionally makes a false report alleging a violation of any provision of this Act to an ethics commission, an inspector general, the State Police, a State's Attorney, the Attorney General, or any other law enforcement official is guilty of a Class A misdemeanor.

(e) An ethics commission may levy an administrative fine of up to \$5,000 against any person who violates this Act, who intentionally obstructs or interferes with an investigation conducted under this Act by an inspector general, or who intentionally makes a false, frivolous, or bad faith allegation.

(f) In addition to any other penalty that may apply, whether criminal or civil, a State employee who intentionally violates any provision of Section 5-15, 5-20, 5-30, 5-35, 5-40, or 5-50, Article 10, Article 15, or Section 20-90 or 25-90 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.

Penalties-

(a) A person is guilty of a Class A misdemeanor if that person intentionally violates any provision of Section 5-15, 5-30, 5-40, or 5-45 or Article 15.

(b) A person who intentionally violates any provision of Section 5-20 or Section 5-35 is guilty of a business offense subject to a fine of at least \$1,001 and up to \$5,000.

(c) In addition to any other penalty that may apply, whether criminal or civil, a director, a supervisor, or a State employee who intentionally violates any provision of Section 5-15, 5-20, 5-30, 5-35, or 5-40 or Article 15 is subject to discipline or discharge by the appropriate ultimate jurisdictional authority.
(Source: 93HB3412enr.)

(93 HB3412enr. Art. 70, Sec. 70-5)

Sec. 70-5. Adoption by governmental entities. (a) Within 6 months after the effective date of this Act, each governmental entity shall adopt an ordinance or resolution that regulates, in a manner no less restrictive than Section 5-15 and Article 10 of this Act, (i) the political activities of officers and employees of the governmental entity and (ii) the soliciting and accepting of gifts by and the offering and making of gifts to officers and employees of the governmental entity.

(b) Within 3 months after the effective date of this amendatory Act of the 93rd General Assembly, the Attorney General shall develop model ordinances and resolutions for the purpose of this Article. The Attorney General and shall advise governmental entities on their contents and adoption.

(c) As used in this Article, (i) an "officer" means an elected or appointed official; regardless of whether the official is compensated, and (ii) an "employee" means a full-time, part-time, or contractual

employee. (Source: 93HB3412enr.)

(93 HB3412enr. Art. 70, Sec. 70-15)

Sec. 70-15. Home rule preemption. This Article is a denial and limitation of home rule powers and functions in accordance with subsection (i) of Section 6 of Article VII of the Illinois Constitution. A home rule unit may not regulate the political activities of its officers and employees and the soliciting, offering, accepting, and making of gifts in a manner less restrictive than the provisions of Section 70-5 of this Act. (Source: 93HB3412enr.)

Section 55.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Illinois Administrative Procedure Act is amended by changing Sections 1-20 and 5-165 as follows:

(5 ILCS 100/1-20) (from Ch. 127, par. 1001-20)

Sec. 1-20. "Agency" means each officer, board, commission, and agency created by the Constitution, whether in the executive, legislative, or judicial branch of State government, but other than the circuit court; each officer, department, board, commission, agency, institution, authority, university, and body politic and corporate of the State; each administrative unit or corporate outgrowth of the State government that is created by or pursuant to statute, other than units of local government and their officers, school districts, and boards of election commissioners; and each administrative unit or corporate outgrowth of the above and as may be created by executive order of the Governor. "Agency", however, does not include the following:

- (1) The House of Representatives and Senate and their respective standing and service committees.
- (2) The Governor.
- (3) The justices and judges of the Supreme and Appellate Courts.
- (4) The Legislative Ethics Commission.

(Source: P.A. 87-823.)

(5 ILCS 100/5-165)

Sec. 5-165. Ex parte communications in rulemaking: special government agents.

(a) Notwithstanding any law to the contrary, this Section applies to ex parte communications made during the rulemaking process.

(b) "Ex parte communication" means any written or oral communication by any person ~~required to be registered under the Lobbyist Registration Act to an agency, agency head, administrative law judge, or other agency employee~~ during the rulemaking period that imparts or requests material information or makes a material argument regarding potential action concerning an agency's general, emergency, or peremptory rulemaking under this Act and that is communicated to that agency, the head of that agency, or any other employee of that agency. For purposes of this Section, the rulemaking period begins upon the commencement of the first notice period with respect to general rulemaking under Section 5-40, upon the filing of a notice of emergency rulemaking under Section 5-45, or upon the filing of a notice of rulemaking with respect to peremptory rulemaking under Section 5-50. "Ex parte communication" does not include the following: (i) statements by a person publicly made in a public forum; (ii) statements regarding matters of procedure and practice, such as the format of public comments, the number of copies required, the manner of filing such comments, and the status of a rulemaking proceeding; and (iii) statements made by a ~~State official or~~ State employee of that agency to the agency head or other employee of that agency.

(c) An ex parte communication received by any ~~agency, agency head, or other agency employee, or administrative law judge~~ shall immediately be reported to that agency's ethics officer by the recipient of the communication and by any other employee of that agency who responds to the communication. The ethics officer shall require that the ex parte communication promptly be made a part of the record of the rulemaking proceeding. The ethics officer shall promptly file the ex parte communication with the Executive Ethics Commission, including all written communications, all written responses to the communications, and a memorandum prepared by the ethics officer stating the nature and substance of all oral communications, the identity and job title of the person to whom each communication was made, and all responses made, the identity and job title of the person making each response, and the identity of each person from whom the written or oral ex parte communication was received, the individual or entity represented by that person, any action the person requested or recommended, and any other pertinent information. The disclosure shall also contain the date of any ex parte communication.

(d) Failure to take certain actions under this Section may constitute a violation as provided in Section 5-50 of the State Officials and Employees Ethics Act. (Source: 93 HB3412enr.)

Section 60.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Open Meetings Act is amended by changing Section 1.02 as follows:

(5 ILCS 120/1.02) (from Ch. 102, par. 41.02)

Sec. 1.02. For the purposes of this Act: "Meeting" means any gathering of a majority of a quorum of the members of a public body held for the purpose of discussing public business.

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "Public body" includes tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000. "Public body" includes the Health Facilities Planning Board. "Public body" does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act or an ethics commission, ~~ethics officer, or ultimate jurisdictional authority~~ acting under the State Officials and Employees Ethics Act ~~State Gift Ban Act as provided by Section 80 of that Act.~~ (Source: P.A. 91-782, eff. 6-9-00; 92-468, eff. 8-22-01.)

Section 70.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Freedom of Information Act is amended by changing Section 7 as follows:

(5 ILCS 140/7) (from Ch. 116, par. 207)

Sec. 7. Exemptions. (1) The following shall be exempt from inspection and copying:

(a) Information specifically prohibited from disclosure by federal or State law or rules and regulations adopted under federal or State law.

(b) Information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the individual subjects of the information. The disclosure of information that bears on the public duties of public employees and officials shall not be considered an invasion of personal privacy. Information exempted under this subsection (b) shall include but is not limited to:

(i) files and personal information maintained with respect to clients, patients, residents, students or other individuals receiving social, medical, educational, vocational, financial, supervisory or custodial care or services directly or indirectly from federal agencies or public bodies;

(ii) personnel files and personal information maintained with respect to employees, appointees or elected officials of any public body or applicants for those positions;

(iii) files and personal information maintained with respect to any applicant, registrant or licensee by any public body cooperating with or engaged in professional or occupational registration, licensure or discipline;

(iv) information required of any taxpayer in connection with the assessment or collection of any tax unless disclosure is otherwise required by State statute; ~~and~~

(v) information revealing the identity of persons who file complaints with or provide information to administrative, investigative, law enforcement or penal agencies; provided, however, that identification of witnesses to traffic accidents, traffic accident reports, and rescue reports may be provided by agencies of local government, except in a case for which a criminal investigation is ongoing, without constituting a clearly unwarranted per se invasion of personal privacy under this subsection; and

(vi) the names, addresses, or other personal information of participants and registrants in park district, forest preserve district, and conservation district programs.

(c) Records compiled by any public body for administrative enforcement proceedings and any law enforcement or correctional agency for law enforcement purposes or for internal matters of a public body, but only to the extent that disclosure would:

(i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency;

(ii) interfere with pending administrative enforcement proceedings conducted by any public body;

(iii) deprive a person of a fair trial or an impartial hearing;

(iv) unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source;

(v) disclose unique or specialized investigative techniques other than those generally used and

known or disclose internal documents of correctional agencies related to detection, observation or investigation of incidents of crime or misconduct;

- (vi) constitute an invasion of personal privacy under subsection (b) of this Section;
- (vii) endanger the life or physical safety of law enforcement personnel or any other person; or
- (viii) obstruct an ongoing criminal investigation.

(d) Criminal history record information maintained by State or local criminal justice agencies, except the following which shall be open for public inspection and copying:

- (i) chronologically maintained arrest information, such as traditional arrest logs or blotters;
- (ii) the name of a person in the custody of a law enforcement agency and the charges for which that person is being held;
- (iii) court records that are public;
- (iv) records that are otherwise available under State or local law; or
- (v) records in which the requesting party is the individual identified, except as provided under part (vii) of paragraph (c) of subsection (1) of this Section.

"Criminal history record information" means data identifiable to an individual and consisting of descriptions or notations of arrests, detentions, indictments, informations, pre-trial proceedings, trials, or other formal events in the criminal justice system or descriptions or notations of criminal charges (including criminal violations of local municipal ordinances) and the nature of any disposition arising therefrom, including sentencing, court or correctional supervision, rehabilitation and release. The term does not apply to statistical records and reports in which individuals are not identified and from which their identities are not ascertainable, or to information that is for criminal investigative or intelligence purposes.

(e) Records that relate to or affect the security of correctional institutions and detention facilities.

(f) Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. The exemption provided in this paragraph (f) extends to all those records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents.

(g) Trade secrets and commercial or financial information obtained from a person or business where the trade secrets or information are proprietary, privileged or confidential, or where disclosure of the trade secrets or information may cause competitive harm, including all information determined to be confidential under Section 4002 of the Technology Advancement and Development Act. Nothing contained in this paragraph (g) shall be construed to prevent a person or business from consenting to disclosure.

(h) Proposals and bids for any contract, grant, or agreement, including information which if it were disclosed would frustrate procurement or give an advantage to any person proposing to enter into a contractor agreement with the body, until an award or final selection is made. Information prepared by or for the body in preparation of a bid solicitation shall be exempt until an award or final selection is made.

(i) Valuable formulae, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure could reasonably be expected to produce private gain or public loss. The exemption for "computer geographic systems" provided in this paragraph (i) does not extend to requests made by news media as defined in Section 2 of this Act when the requested information is not otherwise exempt and the only purpose of the request is to access and disseminate information regarding the health, safety, welfare, or legal rights of the general public.

(j) Test questions, scoring keys and other examination data used to administer an academic examination or determined the qualifications of an applicant for a license or employment.

(k) Architects' plans, engineers' technical submissions, and other construction related technical documents for projects not constructed or developed in whole or in part with public funds and the same for projects constructed or developed with public funds, but only to the extent that disclosure would compromise security, including but not limited to water treatment facilities, airport facilities, sport stadiums, convention centers, and all government owned, operated, or occupied buildings.

(l) Library circulation and order records identifying library users with specific materials.

(m) Minutes of meetings of public bodies closed to the public as provided in the Open Meetings Act until the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act.

(n) Communications between a public body and an attorney or auditor representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an

attorney advising the public body, and materials prepared or compiled with respect to internal audits of public bodies.

(o) Information received by a primary or secondary school, college or university under its procedures for the evaluation of faculty members by their academic peers.

(p) Administrative or technical information associated with automated data processing operations, including but not limited to software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation pertaining to all logical and physical design of computerized systems, employee manuals, and any other information that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section.

(q) Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives, except that any final contract or agreement shall be subject to inspection and copying.

(r) Drafts, notes, recommendations and memoranda pertaining to the financing and marketing transactions of the public body. The records of ownership, registration, transfer, and exchange of municipal debt obligations, and of persons to whom payment with respect to these obligations is made.

(s) The records, documents and information relating to real estate purchase negotiations until those negotiations have been completed or otherwise terminated. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding under Article VII of the Code of Civil Procedure, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules adopted by the Illinois Supreme Court. The records, documents and information relating to a real estate sale shall be exempt until a sale is consummated.

(t) Any and all proprietary information and records related to the operation of an intergovernmental risk management association or self-insurance pool or jointly self-administered health and accident cooperative or pool.

(u) Information concerning a university's adjudication of student or employee grievance or disciplinary cases, to the extent that disclosure would reveal the identity of the student or employee and information concerning any public body's adjudication of student or employee grievances or disciplinary cases, except for the final outcome of the cases.

(v) Course materials or research materials used by faculty members.

(w) Information related solely to the internal personnel rules and practices of a public body.

(x) Information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of a public body responsible for the regulation or supervision of financial institutions or insurance companies, unless disclosure is otherwise required by State law.

(y) Information the disclosure of which is restricted under Section 5-108 of the Public Utilities Act.

(z) Manuals or instruction to staff that relate to establishment or collection of liability for any State tax or that relate to investigations by a public body to determine violation of any criminal law.

(aa) Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received.

(bb) Insurance or self insurance (including any intergovernmental risk management association or self insurance pool) claims, loss or risk management information, records, data, advice or communications.

(cc) Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible disease or any information the disclosure of which is restricted under the Illinois Sexually Transmissible Disease Control Act.

(dd) Information the disclosure of which is exempted under Section 30 of the Radon Industry Licensing Act.

(ee) Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act.

(ff) Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority Act or the St. Clair County Transit District under the Bi-State Transit Safety Act.

(gg) Information the disclosure of which is restricted and exempted under Section 50 of the

Illinois Prepaid Tuition Act.

(hh) Information the disclosure of which is exempted under the State Officials and Employees Ethics Act Section 80 of the State Gift Ban Act.

(ii) Beginning July 1, 1999, information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs, or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act.

(jj) Information contained in a local emergency energy plan submitted to a municipality in accordance with a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code.

(kk) Information and data concerning the distribution of surcharge moneys collected and remitted by wireless carriers under the Wireless Emergency Telephone Safety Act.

(ll) Vulnerability assessments, security measures, and response policies or plans that are designed to identify, prevent, or respond to potential attacks upon a community's population or systems, facilities, or installations, the destruction or contamination of which would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the personnel who implement them or the public. Information exempt under this item may include such things as details pertaining to the mobilization or deployment of personnel or equipment, to the operation of communication systems or protocols, or to tactical operations.

(mm) Maps and other records regarding the location or security of a utility's generation, transmission, distribution, storage, gathering, treatment, or switching facilities.

(nn) ~~(H)~~ Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code.

(oo) ~~(H)~~ Records and information provided to a residential health care facility resident sexual assault and death review team or the Residential Health Care Facility Resident Sexual Assault and Death Review Teams Executive Council under the Residential Health Care Facility Resident Sexual Assault and Death Review Team Act.

(2) This Section does not authorize withholding of information or limit the availability of records to the public, except as stated in this Section or otherwise provided in this Act. (Source: P.A. 92-16, eff. 6-28-01; 92-241, eff. 8-3-01; 92-281, eff. 8-7-01; 92-645, eff. 7-11-02; 92-651, eff. 7-11-02; 93-43, eff. 7-1-03; 93-209, eff. 7-18-03; 93-237, eff. 7-22-03; 93-325, eff. 7-23-03, 93-422, eff. 8-5-03; 93-577, eff. 8-21-03; revised 9-8-03.)

Section 75.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Illinois Public Labor Relations Act is amended by changing Section 3 as follows:

(5 ILCS 315/3) (from Ch. 48, par. 1603)

Sec. 3. Definitions. As used in this Act, unless the context otherwise requires:

(a) "Board" means the Illinois Labor Relations Board or, with respect to a matter over which the jurisdiction of the Board is assigned to the State Panel or the Local Panel under Section 5, the panel having jurisdiction over the matter.

(b) "Collective bargaining" means bargaining over terms and conditions of employment, including hours, wages, and other conditions of employment, as detailed in Section 7 and which are not excluded by Section 4.

(c) "Confidential employee" means an employee who, in the regular course of his or her duties, assists and acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations or who, in the regular course of his or her duties, has authorized access to information relating to the effectuation or review of the employer's collective bargaining policies.

(d) "Craft employees" means skilled journeymen, crafts persons, and their apprentices and helpers.

(e) "Essential services employees" means those public employees performing functions so essential that the interruption or termination of the function will constitute a clear and present danger to the health and safety of the persons in the affected community.

(f) "Exclusive representative", except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, means the labor organization that has been (i) designated by the Board as the representative of a majority of public employees in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political

subdivision of the State before July 1, 1984 (the effective date of this Act) as the exclusive representative of the employees in an appropriate bargaining unit, (iii) after July 1, 1984 (the effective date of this Act) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the employees in an appropriate bargaining unit; or (iv) recognized as the exclusive representative of personal care attendants or personal assistants under Executive Order 2003-8 prior to the effective date of this amendatory Act of the 93rd General Assembly, and the organization shall be considered to be the exclusive representative of the personal care attendants or personal assistants as defined in this Section.

With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, "exclusive representative" means the labor organization that has been (i) designated by the Board as the representative of a majority of peace officers or fire fighters in an appropriate bargaining unit in accordance with the procedures contained in this Act, (ii) historically recognized by the State of Illinois or any political subdivision of the State before January 1, 1986 (the effective date of this amendatory Act of 1985) as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit, or (iii) after January 1, 1986 (the effective date of this amendatory Act of 1985) recognized by an employer upon evidence, acceptable to the Board, that the labor organization has been designated as the exclusive representative by a majority of the peace officers or fire fighters in an appropriate bargaining unit.

(g) "Fair share agreement" means an agreement between the employer and an employee organization under which all or any of the employees in a collective bargaining unit are required to pay their proportionate share of the costs of the collective bargaining process, contract administration, and pursuing matters affecting wages, hours, and other conditions of employment, but not to exceed the amount of dues uniformly required of members. The amount certified by the exclusive representative shall not include any fees for contributions related to the election or support of any candidate for political office. Nothing in this subsection (g) shall preclude an employee from making voluntary political contributions in conjunction with his or her fair share payment.

(g-1) "Fire fighter" means, for the purposes of this Act only, any person who has been or is hereafter appointed to a fire department or fire protection district or employed by a state university and sworn or commissioned to perform fire fighter duties or paramedic duties, except that the following persons are not included: part-time fire fighters, auxiliary, reserve or voluntary fire fighters, including paid on-call fire fighters, clerks and dispatchers or other civilian employees of a fire department or fire protection district who are not routinely expected to perform fire fighter duties, or elected officials.

(g-2) "General Assembly of the State of Illinois" means the legislative branch of the government of the State of Illinois, as provided for under Article IV of the Constitution of the State of Illinois, and includes but is not limited to the House of Representatives, the Senate, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, the Joint Committee on Legislative Support Services and any legislative support services agency listed in the Legislative Commission Reorganization Act of 1984.

(h) "Governing body" means, in the case of the State, the State Panel of the Illinois Labor Relations Board, the Director of the Department of Central Management Services, and the Director of the Department of Labor; the county board in the case of a county; the corporate authorities in the case of a municipality; and the appropriate body authorized to provide for expenditures of its funds in the case of any other unit of government.

(i) "Labor organization" means any organization in which public employees participate and that exists for the purpose, in whole or in part, of dealing with a public employer concerning wages, hours, and other terms and conditions of employment, including the settlement of grievances.

(j) "Managerial employee" means an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of management policies and practices.

(k) "Peace officer" means, for the purposes of this Act only, any persons who have been or are hereafter appointed to a police force, department, or agency and sworn or commissioned to perform police duties, except that the following persons are not included: part-time police officers, special police officers, auxiliary police as defined by Section 3.1-30-20 of the Illinois Municipal Code, night watchmen, "merchant police", court security officers as defined by Section 3-6012.1 of the Counties Code, temporary employees, traffic guards or wardens, civilian parking meter and parking facilities personnel or other individuals specially appointed to aid or direct traffic at or near schools or public functions or to aid in civil defense or disaster, parking enforcement employees who are not commissioned as peace officers and who are not armed and who are not routinely expected to effect

arrests, parking lot attendants, clerks and dispatchers or other civilian employees of a police department who are not routinely expected to effect arrests, or elected officials.

(l) "Person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, receivers, or the State of Illinois or any political subdivision of the State or governing body, but does not include the General Assembly of the State of Illinois or any individual employed by the General Assembly of the State of Illinois.

(m) "Professional employee" means any employee engaged in work predominantly intellectual and varied in character rather than routine mental, manual, mechanical or physical work; involving the consistent exercise of discretion and adjustment in its performance; of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time; and requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher learning or a hospital, as distinguished from a general academic education or from apprenticeship or from training in the performance of routine mental, manual, or physical processes; or any employee who has completed the courses of specialized intellectual instruction and study prescribed in this subsection (m) and is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in this subsection (m).

(n) "Public employee" or "employee", for the purposes of this Act, means any individual employed by a public employer, including interns and residents at public hospitals and, as of the effective date of this amendatory Act of the 93rd General Assembly, but not before, personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act, but excluding all of the following: employees of the General Assembly of the State of Illinois; elected officials; executive heads of a department; members of boards or commissions; the Executive Inspectors General; any special Executive Inspectors General; employees of each Office of an Executive Inspector General; commissioners and employees of the Executive Ethics Commission; the Auditor General's Inspector General; employees of the Office of the Auditor General's Inspector General; the Legislative Inspector General; any special Legislative Inspectors General; employees of the Office of the Legislative Inspector General; commissioners and employees of the Legislative Ethics Commission; employees of any agency, board or commission created by this Act; employees appointed to State positions of a temporary or emergency nature; all employees of school districts and higher education institutions except firefighters and peace officers employed by a state university; managerial employees; short-term employees; confidential employees; independent contractors; and supervisors except as provided in this Act.

Personal care attendants and personal assistants shall not be considered public employees for any purposes not specifically provided for in this amendatory Act of the 93rd General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Personal care attendants and personal assistants shall not be covered by the State Employees Group Insurance Act of 1971 (5 ILCS 375/).

Notwithstanding Section 9, subsection (c), or any other provisions of this Act, all peace officers above the rank of captain in municipalities with more than 1,000,000 inhabitants shall be excluded from this Act.

(o) "Public employer" or "employer" means the State of Illinois; any political subdivision of the State, unit of local government or school district; authorities including departments, divisions, bureaus, boards, commissions, or other agencies of the foregoing entities; and any person acting within the scope of his or her authority, express or implied, on behalf of those entities in dealing with its employees. As of the effective date of this amendatory Act of the 93rd General Assembly, but not before, the State of Illinois shall be considered the employer of the personal care attendants and personal assistants working under the Home Services Program under Section 3 of the Disabled Persons Rehabilitation Act, subject to the limitations set forth in this Act and in the Disabled Persons Rehabilitation Act. The State shall not be considered to be the employer of personal care attendants and personal assistants for any purposes not specifically provided for in this amendatory Act of the 93rd General Assembly, including but not limited to, purposes of vicarious liability in tort and purposes of statutory retirement or health insurance benefits. Personal care attendants and personal assistants shall not be covered by the State Employees Group Insurance Act of 1971 (5 ILCS 375/). "Public employer" or "employer" as used in this Act, however, does not mean and shall not include the General Assembly of the State of Illinois, the Executive Ethics Commission, the Offices of the Executive Inspectors General, the Legislative Ethics Commission, the Office of the Legislative Inspector General, the Office of the Auditor General's Inspector General, and educational employers or employers as defined in the Illinois Educational Labor Relations Act, except

with respect to a state university in its employment of firefighters and peace officers. County boards and county sheriffs shall be designated as joint or co-employers of county peace officers appointed under the authority of a county sheriff. Nothing in this subsection (o) shall be construed to prevent the State Panel or the Local Panel from determining that employers are joint or co-employers.

(p) "Security employee" means an employee who is responsible for the supervision and control of inmates at correctional facilities. The term also includes other non-security employees in bargaining units having the majority of employees being responsible for the supervision and control of inmates at correctional facilities.

(q) "Short-term employee" means an employee who is employed for less than 2 consecutive calendar quarters during a calendar year and who does not have a reasonable assurance that he or she will be rehired by the same employer for the same service in a subsequent calendar year.

(r) "Supervisor" is an employee whose principal work is substantially different from that of his or her subordinates and who has authority, in the interest of the employer, to hire, transfer, suspend, lay off, recall, promote, discharge, direct, reward, or discipline employees, to adjust their grievances, or to effectively recommend any of those actions, if the exercise of that authority is not of a merely routine or clerical nature, but requires the consistent use of independent judgment. Except with respect to police employment, the term "supervisor" includes only those individuals who devote a preponderance of their employment time to exercising that authority, State supervisors notwithstanding. In addition, in determining supervisory status in police employment, rank shall not be determinative. The Board shall consider, as evidence of bargaining unit inclusion or exclusion, the common law enforcement policies and relationships between police officer ranks and certification under applicable civil service law, ordinances, personnel codes, or Division 2.1 of Article 10 of the Illinois Municipal Code, but these factors shall not be the sole or predominant factors considered by the Board in determining police supervisory status.

Notwithstanding the provisions of the preceding paragraph, in determining supervisory status in fire fighter employment, no fire fighter shall be excluded as a supervisor who has established representation rights under Section 9 of this Act. Further, in new fire fighter units, employees shall consist of fire fighters of the rank of company officer and below. If a company officer otherwise qualifies as a supervisor under the preceding paragraph, however, he or she shall not be included in the fire fighter unit. If there is no rank between that of chief and the highest company officer, the employer may designate a position on each shift as a Shift Commander, and the persons occupying those positions shall be supervisors. All other ranks above that of company officer shall be supervisors.

(s) (1) "Unit" means a class of jobs or positions that are held by employees whose collective interests may suitably be represented by a labor organization for collective bargaining. Except with respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both employees and supervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on July 1, 1984 (the effective date of this Act). With respect to non-State fire fighters and paramedics employed by fire departments and fire protection districts, non-State peace officers, and peace officers in the Department of State Police, a bargaining unit determined by the Board shall not include both supervisors and nonsupervisors, or supervisors only, except as provided in paragraph (2) of this subsection (s) and except for bargaining units in existence on January 1, 1986 (the effective date of this amendatory Act of 1985). A bargaining unit determined by the Board to contain peace officers shall contain no employees other than peace officers unless otherwise agreed to by the employer and the labor organization or labor organizations involved. Notwithstanding any other provision of this Act, a bargaining unit, including a historical bargaining unit, containing sworn peace officers of the Department of Natural Resources (formerly designated the Department of Conservation) shall contain no employees other than such sworn peace officers upon the effective date of this amendatory Act of 1990 or upon the expiration date of any collective bargaining agreement in effect upon the effective date of this amendatory Act of 1990 covering both such sworn peace officers and other employees.

(2) Notwithstanding the exclusion of supervisors from bargaining units as provided in paragraph (1) of this subsection (s), a public employer may agree to permit its supervisory employees to form bargaining units and may bargain with those units. This Act shall apply if the public employer chooses to bargain under this subsection.

(Source: P.A. 93-204, eff. 7-16-03.)

Section 77. If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the State Employee Indemnification Act is amended by

[November 20, 2003]

changing Section 1 as follows:

(5 ILCS 350/1) (from Ch. 127, par. 1301)

Sec. 1. Definitions. For the purpose of this Act:

(a) The term "State" means the State of Illinois, the General Assembly, the court, or any State office, department, division, bureau, board, commission, or committee, the governing boards of the public institutions of higher education created by the State, the Illinois National Guard, the Comprehensive Health Insurance Board, any poison control center designated under the Poison Control System Act that receives State funding, or any other agency or instrumentality of the State. It does not mean any local public entity as that term is defined in Section 1-206 of the Local Governmental and Governmental Employees Tort Immunity Act or a pension fund.

(b) The term "employee" means any present or former elected or appointed officer, trustee or employee of the State, or of a pension fund, any present or former commissioner or employee of the Executive Ethics Commission or of the Legislative Ethics Commission, any present or former Executive, Legislative, or Auditor General's Inspector General, any present or former employee of an Office of an Executive, Legislative, or Auditor General's Inspector General, any present or former member of the Illinois National Guard while on active duty, individuals or organizations who contract with the Department of Corrections, the Comprehensive Health Insurance Board, or the Department of Veterans' Affairs to provide services, individuals or organizations who contract with the Department of Human Services (as successor to the Department of Mental Health and Developmental Disabilities) to provide services including but not limited to treatment and other services for sexually violent persons, individuals or organizations who contract with the Department of Military Affairs for youth programs, individuals or organizations who contract to perform carnival and amusement ride safety inspections for the Department of Labor, individual representatives of or designated organizations authorized to represent the Office of State Long-Term Ombudsman for the Department on Aging, individual representatives of or organizations designated by the Department on Aging in the performance of their duties as elder abuse provider agencies or regional administrative agencies under the Elder Abuse and Neglect Act, individuals or organizations who perform volunteer services for the State where such volunteer relationship is reduced to writing, individuals who serve on any public entity (whether created by law or administrative action) described in paragraph (a) of this Section, individuals or not for profit organizations who, either as volunteers, where such volunteer relationship is reduced to writing, or pursuant to contract, furnish professional advice or consultation to any agency or instrumentality of the State, individuals who serve as foster parents for the Department of Children and Family Services when caring for a Department ward, and individuals who serve as arbitrators pursuant to Part 10A of Article II of the Code of Civil Procedure and the rules of the Supreme Court implementing Part 10A, each as now or hereafter amended, but does not mean an independent contractor except as provided in this Section. The term includes an individual appointed as an inspector by the Director of State Police when performing duties within the scope of the activities of a Metropolitan Enforcement Group or a law enforcement organization established under the Intergovernmental Cooperation Act. An individual who renders professional advice and consultation to the State through an organization which qualifies as an "employee" under the Act is also an employee. The term includes the estate or personal representative of an employee.

(c) The term "pension fund" means a retirement system or pension fund created under the Illinois Pension Code. (Source: P.A. 90-793, eff. 8-14-98; 91-726, eff. 6-2-00.)

(5 ILCS 395/Act rep.)

Section 80. If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Whistle Blower Protection Act is repealed.

Section 83.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Illinois Governmental Ethics Act is amended by changing Sections 4A-101, 4A-102, 4A-105, 4A-106, and 4A-107 as follows:

(5 ILCS 420/4A-101) (from Ch. 127, par. 604A-101)

Sec. 4A-101. Persons required to file. The following persons shall file verified written statements of economic interests, as provided in this Article:

(a) Members of the General Assembly and candidates for nomination or election to the General Assembly.

(b) Persons holding an elected office in the Executive Branch of this State, and candidates for nomination or election to these offices.

(c) Members of a Commission or Board created by the Illinois Constitution, and candidates for nomination or election to such Commission or Board.

(d) Persons whose appointment to office is subject to confirmation by the Senate.

(e) Holders of, and candidates for nomination or election to, the office of judge or associate judge of the Circuit Court and the office of judge of the Appellate or Supreme Court.

(f) Persons who are employed by any branch, agency, authority or board of the government of this State, including but not limited to, the Illinois State Toll Highway Authority, the Illinois Housing Development Authority, the Illinois Community College Board, and institutions under the jurisdiction of the Board of Trustees of the University of Illinois, Board of Trustees of Southern Illinois University, Board of Trustees of Chicago State University, Board of Trustees of Eastern Illinois University, Board of Trustees of Governor's State University, Board of Trustees of Illinois State University, Board of Trustees of Northeastern Illinois University, Board of Trustees of Northern Illinois University, Board of Trustees of Western Illinois University, or Board of Trustees of the Illinois Mathematics and Science Academy, and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, commission, board, division, bureau, authority or other administrative unit within the government of this State, or who exercise similar authority within the government of this State;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the State in the amount of \$5,000 or more;

(3) have authority for the issuance or promulgation of rules and regulations within areas under the authority of the State;

(4) have authority for the approval of professional licenses;

(5) have responsibility with respect to the financial inspection of regulated nongovernmental entities;

(6) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the State; or

(7) have supervisory responsibility for 20 or more employees of the State.

(g) Persons who are elected to office in a unit of local government, and candidates for nomination or election to that office, including regional superintendents of school districts.

(h) Persons appointed to the governing board of a unit of local government, or of a special district, and persons appointed to a zoning board, or zoning board of appeals, or to a regional, county, or municipal plan commission, or to a board of review of any county, and persons appointed to the Board of the Metropolitan Pier and Exposition Authority and any Trustee appointed under Section 22 of the Metropolitan Pier and Exposition Authority Act, and persons appointed to a board or commission of a unit of local government who have authority to authorize the expenditure of public funds. This subsection does not apply to members of boards or commissions who function in an advisory capacity.

(i) Persons who are employed by a unit of local government and are compensated for services as employees and not as independent contractors and who:

(1) are, or function as, the head of a department, division, bureau, authority or other administrative unit within the unit of local government, or who exercise similar authority within the unit of local government;

(2) have direct supervisory authority over, or direct responsibility for the formulation, negotiation, issuance or execution of contracts entered into by the unit of local government in the amount of \$1,000 or greater;

(3) have authority to approve licenses and permits by the unit of local government; this item does not include employees who function in a ministerial capacity;

(4) adjudicate, arbitrate, or decide any judicial or administrative proceeding, or review the adjudication, arbitration or decision of any judicial or administrative proceeding within the authority of the unit of local government;

(5) have authority to issue or promulgate rules and regulations within areas under the authority of the unit of local government; or

(6) have supervisory responsibility for 20 or more employees of the unit of local government.

(j) Persons on the Board of Trustees of the Illinois Mathematics and Science Academy.

(k) Persons employed by a school district in positions that require that person to hold an administrative or a chief school business official endorsement.

(l) Special government agents. A "special government agent" is a person who is directed, retained, designated, appointed, or employed, with or without compensation, by or on behalf of a statewide

executive branch constitutional officer to make an ex parte communication under Section 5-50 of the State Officials and Employees Ethics Act or Section 5-165 of the Illinois Administrative Procedure Act. (Blank).

This Section shall not be construed to prevent any unit of local government from enacting financial disclosure requirements that mandate more information than required by this Act. (Source: P.A. 91-622, eff. 8-19-99.)

(5 ILCS 420/4A-102) (from Ch. 127, par. 604A-102)

Sec. 4A-102. The statement of economic interests required by this Article shall include the economic interests of the person making the statement as provided in this Section. The interest (if constructively controlled by the person making the statement) of a spouse or any other party, shall be considered to be the same as the interest of the person making the statement. Campaign receipts shall not be included in this statement.

(a) The following interests shall be listed by all persons required to file:

(1) The name, address and type of practice of any professional organization or individual professional practice in which the person making the statement was an officer, director, associate, partner or proprietor, or served in any advisory capacity, from which income in excess of \$1200 was derived during the preceding calendar year;

(2) The nature of professional services (other than services rendered to the unit or units of government in relation to which the person is required to file) and the nature of the entity to which they were rendered if fees exceeding \$5,000 were received during the preceding calendar year from the entity for professional services rendered by the person making the statement.

(3) The identity (including the address or legal description of real estate) of any capital asset from which a capital gain of \$5,000 or more was realized in the preceding calendar year.

(4) The name of any unit of government which has employed the person making the statement during the preceding calendar year other than the unit or units of government in relation to which the person is required to file.

(5) The name of any entity from which a gift or gifts, or honorarium or honoraria, valued singly or in the aggregate in excess of \$500, was received during the preceding calendar year.

(b) The following interests shall also be listed by persons listed in items (a) through (f) and item (l) of Section 4A-101:

(1) The name and instrument of ownership in any entity doing business in the State of Illinois, in which an ownership interest held by the person at the date of filing is in excess of \$5,000 fair market value or from which dividends of in excess of \$1,200 were derived during the preceding calendar year. (In the case of real estate, location thereof shall be listed by street address, or if none, then by legal description). No time or demand deposit in a financial institution, nor any debt instrument need be listed;

(2) Except for professional service entities, the name of any entity and any position held therein from which income of in excess of \$1,200 was derived during the preceding calendar year, if the entity does business in the State of Illinois. No time or demand deposit in a financial institution, nor any debt instrument need be listed.

(3) The identity of any compensated lobbyist with whom the person making the statement maintains a close economic association, including the name of the lobbyist and specifying the legislative matter or matters which are the object of the lobbying activity, and describing the general type of economic activity of the client or principal on whose behalf that person is lobbying.

(c) The following interests shall also be listed by persons listed in items (g), (h), and (i), ~~and (l)~~ of Section 4A-101:

(1) The name and instrument of ownership in any entity doing business with a unit of local government in relation to which the person is required to file if the ownership interest of the person filing is greater than \$5,000 fair market value as of the date of filing or if dividends in excess of \$1,200 were received from the entity during the preceding calendar year. (In the case of real estate, location thereof shall be listed by street address, or if none, then by legal description). No time or demand deposit in a financial institution, nor any debt instrument need be listed.

(2) Except for professional service entities, the name of any entity and any position held therein from which income in excess of \$1,200 was derived during the preceding calendar year if the entity does business with a unit of local government in relation to which the person is required to file. No time or demand deposit in a financial institution, nor any debt instrument need be listed.

(3) The name of any entity and the nature of the governmental action requested by any entity which has applied to a unit of local government in relation to which the person must file for any license, franchise or permit for annexation, zoning or rezoning of real estate during the preceding

calendar year if the ownership interest of the person filing is in excess of \$5,000 fair market value at the time of filing or if income or dividends in excess of \$1,200 were received by the person filing from the entity during the preceding calendar year.

(Source: P.A. 92-101, eff. 1-1-02.)

(5 ILCS 420/4A-105) (from Ch. 127, par. 604A-105)

Sec. 4A-105. Time for filing. Except as provided in Section 4A-106.1, by May 1 of each year a statement must be filed by each person whose position at that time subjects him to the filing requirements of Section 4A-101 unless he has already filed a statement in relation to the same unit of government in that calendar year.

Statements must also be filed as follows:

(a) A candidate for elective office shall file his statement not later than the end of the period during which he can take the action necessary under the laws of this State to attempt to qualify for nomination, election, or retention to such office if he has not filed a statement in relation to the same unit of government within a year preceding such action.

(b) A person whose appointment to office is subject to confirmation by the Senate shall file his statement at the time his name is submitted to the Senate for confirmation.

(b-5) A special government agent, as defined in Section 5-50 of the State Officials and Employees Ethics Act and in Section 5-165 of the Illinois Administrative Procedure Act, shall file a statement within 30 days after making the first ex parte communication and each May 1 thereafter if he or she has made an ex parte communication within the previous 12 months.

(c) Any other person required by this Article to file the statement shall file a statement at the time of his or her initial appointment or employment in relation to that unit of government if appointed or employed by May 1.

If any person who is required to file a statement of economic interests fails to file such statement by May 1 of any year, the officer with whom such statement is to be filed under Section 4A-106 of this Act shall, within 7 days after May 1, notify such person by certified mail of his or her failure to file by the specified date. Except as may be prescribed by rule of the Secretary of State, such person shall file his or her statement of economic interests on or before May 15 with the appropriate officer, together with a \$15 late filing fee. Any such person who fails to file by May 15 shall be subject to a penalty of \$100 for each day from May 16 to the date of filing, which shall be in addition to the \$15 late filing fee specified above. Failure to file by May 31 shall result in a forfeiture in accordance with Section 4A-107 of this Act.

Any person who takes office or otherwise becomes required to file a statement of economic interests within 30 days prior to May 1 of any year may file his or her statement at any time on or before May 31 without penalty. If such person fails to file such statement by May 31, the officer with whom such statement is to be filed under Section 4A-106 of this Act shall, within 7 days after May 31, notify such person by certified mail of his or her failure to file by the specified date. Such person shall file his or her statement of economic interests on or before June 15 with the appropriate officer, together with a \$15 late filing fee. Any such person who fails to file by June 15 shall be subject to a penalty of \$100 per day for each day from June 16 to the date of filing, which shall be in addition to the \$15 late filing fee specified above. Failure to file by June 30 shall result in a forfeiture in accordance with Section 4A-107 of this Act.

All late filing fees and penalties collected pursuant to this Section shall be paid into the General Revenue Fund in the State treasury, if the Secretary of State receives such statement for filing, or into the general fund in the county treasury, if the county clerk receives such statement for filing. The Attorney General, with respect to the State, and the several State's Attorneys, with respect to counties, shall take appropriate action to collect the prescribed penalties.

Failure to file a statement of economic interests within the time prescribed shall not result in a fine or ineligibility for, or forfeiture of, office or position of employment, as the case may be; provided that the failure to file results from not being included for notification by the appropriate agency, clerk, secretary, officer or unit of government, as the case may be, and that a statement is filed within 30 days of actual notice of the failure to file. (Source: P.A. 88-187; 88-605, eff. 9-1-94; 89-433, eff. 12-15-95.)

(5 ILCS 420/4A-106) (from Ch. 127, par. 604A-106)

Sec. 4A-106. The statements of economic interests required of persons listed in items (a) through (f), ~~and~~ item (j), ~~and~~ item (l) of Section 4A-101 shall be filed with the Secretary of State. The statements of economic interests required of persons listed in items (g), (h), (i), ~~and~~ (k), ~~and~~ (l) of Section 4A-101 shall be filed with the county clerk of the county in which the principal office of the unit of local government with which the person is associated is located. If it is not apparent which county the principal office of a unit of local government is located, the chief administrative officer, or his or her

designee, has the authority, for purposes of this Act, to determine the county in which the principal office is located. On or before February 1 annually, (1) the chief administrative officer of any State agency in the executive, legislative, or judicial branch employing persons required to file under item (f) or ~~item (l)~~ of Section 4A-101 shall certify to the Secretary of State the names and mailing addresses of those persons, and (2) the chief administrative officer, or his or her designee, of each unit of local government with persons described in items (h), (i) and (k) of Section 4A-101 shall certify to the appropriate county clerk a list of names and addresses of persons described in items (h), (i) and (k) of Section 4A-101 that are required to file. In preparing the lists, each chief administrative officer, or his or her designee, shall set out the names in alphabetical order.

~~On or before February 1 annually, the secretary to the board of education for local school councils established pursuant to Section 34 2.1 of the School Code shall certify to the county clerk the names and mailing addresses of those persons described in item (l) of Section 4A-101.~~

On or before April 1 annually, the Secretary of State shall notify (1) all persons whose names have been certified to him under ~~items~~ ~~item~~ (f) and (l) of Section 4A-101, and (2) all persons described in items (a) through (e) and item (j) of Section 4A-101, other than candidates for office who have filed their statements with their nominating petitions, of the requirements for filing statements of economic interests. A person required to file with the Secretary of State by virtue of more than one item among items (a) through (f) and ~~items~~ ~~item~~ (j) and (l) shall be notified of and is required to file only one statement of economic interests relating to all items under which the person is required to file with the Secretary of State.

On or before April 1 annually, the county clerk of each county shall notify all persons whose names have been certified to him under items (g), (h), (i), and (k), ~~and (l)~~ of Section 4A-101, other than candidates for office who have filed their statements with their nominating petitions, of the requirements for filing statements of economic interests. A person required to file with a county clerk by virtue of more than one item among items (g), (h), (i), and (k), ~~and (l)~~ shall be notified of and is required to file only one statement of economic interests relating to all items under which the person is required to file with that county clerk.

Except as provided in Section 4A-106.1, the notices provided for in this Section shall be in writing and deposited in the U.S. Mail, properly addressed, first class postage prepaid, on or before the day required by this Section for the sending of the notice. A certificate executed by the Secretary of State or county clerk attesting that he has mailed the notice constitutes prima facie evidence thereof.

From the lists certified to him under this Section of persons described in items (g), (h), (i), and (k), ~~and (l)~~ of Section 4A-101, the clerk of each county shall compile an alphabetical listing of persons required to file statements of economic interests in his office under any of those items. As the statements are filed in his office, the county clerk shall cause the fact of that filing to be indicated on the alphabetical listing of persons who are required to file statements. Within 30 days after the due dates, the county clerk shall mail to the State Board of Elections a true copy of that listing showing those who have filed statements.

The county clerk of each county shall note upon the alphabetical listing the names of all persons required to file a statement of economic interests who failed to file a statement on or before May 1. It shall be the duty of the several county clerks to give notice as provided in Section 4A-105 to any person who has failed to file his or her statement with the clerk on or before May 1.

Any person who files or has filed a statement of economic interest under this Act is entitled to receive from the Secretary of State or county clerk, as the case may be, a receipt indicating that the person has filed such a statement, the date of such filing, and the identity of the governmental unit or units in relation to which the filing is required.

The Secretary of State may employ such employees and consultants as he considers necessary to carry out his duties hereunder, and may prescribe their duties, fix their compensation, and provide for reimbursement of their expenses.

All statements of economic interests filed under this Section shall be available for examination and copying by the public at all reasonable times. Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, beginning with statements filed in calendar year 2004, the Secretary of State shall make statements of economic interests filed with the Secretary available for inspection and copying via the Secretary's website. Each person examining a statement filed with the county clerk must first fill out a form prepared by the Secretary of State identifying the examiner by name, occupation, address and telephone number, and listing the date of examination and reason for such examination. The Secretary of State shall supply such forms to the county clerks annually and replenish such forms upon request.

~~The Secretary of State or county clerk, as the case may be, shall promptly notify each person required~~

to file a statement under this Article of each instance of an examination of his statement by sending him a duplicate original of the identification form filled out by the person examining his statement. (Source: P.A. 92-101, eff. 1-1-02.)

(5 ILCS 420/4A-107) (from Ch. 127, par. 604A-107)

Sec. 4A-107. Any person required to file a statement of economic interests under this Article who willfully files a false or incomplete statement shall be guilty of a Class A misdemeanor.

Failure to file a statement within the time prescribed shall result in ineligibility for, or forfeiture of, office or position of employment, as the case may be; provided, however, that if the notice of failure to file a statement of economic interests provided in Section 4A-105 of this Act is not given by the Secretary of State or the county clerk, as the case may be, no forfeiture shall result if a statement is filed within 30 days of actual notice of the failure to file.

The Attorney General, with respect to offices or positions described in items (a) through (f) and items (j) and (l) of Section 4A-101 of this Act, or the State's Attorney of the county of the entity for which the filing of statements of economic interests is required, with respect to offices or positions described in items (g) through (i) and item: (k), and (l) of Section 4A-101 of this Act, shall bring an action in quo warranto against any person who has failed to file by either May 31 or June 30 of any given year. (Source: P.A. 88-187; 88-511.)

(5 ILCS 425/Act rep.)

Section 85. If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the State Gift Ban Act is repealed.

(15 ILCS 505/19 rep.)

Section 87. If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the State Treasurer Act is amended by repealing Section 19.

Section 90.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Personnel Code is amended by changing Section 4c as follows:

(20 ILCS 415/4c) (from Ch. 127, par. 63b104c)

Sec. 4c. General exemptions. The following positions in State service shall be exempt from jurisdictions A, B, and C, unless the jurisdictions shall be extended as provided in this Act:

- (1) All officers elected by the people.
- (2) All positions under the Lieutenant Governor, Secretary of State, State Treasurer, State Comptroller, State Board of Education, Clerk of the Supreme Court, and Attorney General.
- (3) Judges, and officers and employees of the courts, and notaries public.
- (4) All officers and employees of the Illinois General Assembly, all employees of legislative commissions, all officers and employees of the Illinois Legislative Reference Bureau, the Legislative Research Unit, and the Legislative Printing Unit.
- (5) All positions in the Illinois National Guard and Illinois State Guard, paid from federal funds or positions in the State Military Service filled by enlistment and paid from State funds.
- (6) All employees of the Governor at the executive mansion and on his immediate personal staff.
- (7) Directors of Departments, the Adjutant General, the Assistant Adjutant General, the Director of the Illinois Emergency Management Agency, members of boards and commissions, and all other positions appointed by the Governor by and with the consent of the Senate.
- (8) The presidents, other principal administrative officers, and teaching, research and extension faculties of Chicago State University, Eastern Illinois University, Governors State University, Illinois State University, Northeastern Illinois University, Northern Illinois University, Western Illinois University, the Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, and the administrative officers and scientific and technical staff of the Illinois State Museum.
- (9) All other employees except the presidents, other principal administrative officers, and teaching, research and extension faculties of the universities under the jurisdiction of the Board of Regents and the colleges and universities under the jurisdiction of the Board of Governors of State Colleges and Universities, Illinois Community College Board, Southern Illinois University, Illinois Board of Higher Education, Board of Governors of State Colleges and Universities, the Board of Regents, University of Illinois, State Universities Civil Service System, University Retirement System of Illinois, so long as these are subject to the provisions of the State Universities Civil Service Act.
- (10) The State Police so long as they are subject to the merit provisions of the State Police Act.
- (11) The scientific staff of the State Scientific Surveys and the Waste Management and Research

Center.

(12) The technical and engineering staffs of the Department of Transportation, the Department of Nuclear Safety, the Pollution Control Board, and the Illinois Commerce Commission, and the technical and engineering staff providing architectural and engineering services in the Department of Central Management Services.

(13) All employees of the Illinois State Toll Highway Authority.

(14) The Secretary of the Industrial Commission.

(15) All persons who are appointed or employed by the Director of Insurance under authority of Section 202 of the Illinois Insurance Code to assist the Director of Insurance in discharging his responsibilities relating to the rehabilitation, liquidation, conservation, and dissolution of companies that are subject to the jurisdiction of the Illinois Insurance Code.

(16) All employees of the St. Louis Metropolitan Area Airport Authority.

(17) All investment officers employed by the Illinois State Board of Investment.

(18) Employees of the Illinois Young Adult Conservation Corps program, administered by the Illinois Department of Natural Resources, authorized grantee under Title VIII of the Comprehensive Employment and Training Act of 1973, 29 USC 993.

(19) Seasonal employees of the Department of Agriculture for the operation of the Illinois State Fair and the DuQuoin State Fair, no one person receiving more than 29 days of such employment in any calendar year.

(20) All "temporary" employees hired under the Department of Natural Resources' Illinois Conservation Service, a youth employment program that hires young people to work in State parks for a period of one year or less.

(21) All hearing officers of the Human Rights Commission.

(22) All employees of the Illinois Mathematics and Science Academy.

(23) All employees of the Kankakee River Valley Area Airport Authority.

(24) The commissioners and employees of the Executive Ethics Commission.

(25) The Executive Inspectors General, including special Executive Inspectors General, and employees of each Office of an Executive Inspector General.

(26) The commissioners and employees of the Legislative Ethics Commission.

(27) The Legislative Inspector General, including special Legislative Inspectors General, and employees of the Office of the Legislative Inspector General.

(28) The Auditor General's Inspector General and employees of the Office of the Auditor General's Inspector General.

(Source: P.A. 90-490, eff. 8-17-97; 91-214, eff. 1-1-00; 91-357, eff. 7-29-99.)

Section 95. If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the General Assembly Compensation Act is amended by changing Section 4 as follows:

(25 ILCS 115/4) (from Ch. 63, par. 15.1)

Sec. 4. Office allowance. Beginning July 1, 2001, each member of the House of Representatives is authorized to approve the expenditure of not more than \$61,000 per year and each member of the Senate is authorized to approve the expenditure of not more than \$73,000 per year to pay for "personal services", "contractual services", "commodities", "printing", "travel", "operation of automotive equipment", "telecommunications services", as defined in the State Finance Act, and the compensation of one or more legislative assistants authorized pursuant to this Section, in connection with his or her legislative duties and not in connection with any political campaign. On July 1, 2002 and on July 1 of each year thereafter, the amount authorized per year under this Section for each member of the Senate and each member of the House of Representatives shall be increased by a percentage increase equivalent to the lesser of (i) the increase in the designated cost of living index or (ii) 5%. The designated cost of living index is the index known as the "Employment Cost Index, Wages and Salaries, By Occupation and Industry Groups: State and Local Government Workers: Public Administration" as published by the Bureau of Labor Statistics of the U.S. Department of Labor for the calendar year immediately preceding the year of the respective July 1st increase date. The increase shall be added to the then current amount, and the adjusted amount so determined shall be the annual amount beginning July 1 of the increase year until July 1 of the next year. No increase under this provision shall be less than zero.

A member may purchase office equipment if the member certifies to the Secretary of the Senate or the Clerk of the House, as applicable, that the purchase price, whether paid in lump sum or installments, amounts to less than would be charged for renting or leasing the equipment over its anticipated useful life. All such equipment must be purchased through the Secretary of the Senate or the Clerk of the House, as applicable, for proper identification and verification of purchase.

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Each member of the General Assembly is authorized to employ one or more legislative assistants, who shall be solely under the direction and control of that member, for the purpose of assisting the member in the performance of his or her official duties. A legislative assistant may be employed pursuant to this Section as a full-time employee, part-time employee, or contractual employee, at the discretion of the member. If employed as a State employee, a legislative assistant shall receive employment benefits on the same terms and conditions that apply to other employees of the General Assembly. Each member shall adopt and implement personnel policies for legislative assistants under his or her direction and control relating to work time requirements, documentation for reimbursement for travel on official State business, compensation, and the earning and accrual of State benefits for those legislative assistants who may be eligible to receive those benefits. The policies shall also require legislative assistants to periodically submit time sheets documenting, in quarter-hour increments, the time spent each day on official State business. The policies shall require the time sheets to be submitted on paper, electronically, or both and to be maintained in either paper or electronic format by the applicable fiscal office for a period of at least 2 years. Contractual employees may satisfy the time sheets requirement by complying with the terms of their contract, which shall provide for a means of compliance with this requirement. A member may satisfy the requirements of this paragraph by adopting and implementing the personnel policies promulgated by that member's legislative leader under the State Officials and Employees Ethics Act with respect to that member's legislative assistants.

As used in this Section the term "personal services" shall include contributions of the State under the Federal Insurance Contribution Act and under Article 14 of the Illinois Pension Code. As used in this Section the term "contractual services" shall not include improvements to real property unless those improvements are the obligation of the lessee under the lease agreement. Beginning July 1, 1989, as used in the Section, the term "travel" shall be limited to travel in connection with a member's legislative duties and not in connection with any political campaign. Beginning on the effective date of this amendatory Act of the 93rd General Assembly, as used in this Section, the term "printing" includes, but is not limited to, newsletters, brochures, certificates, congratulatory mailings, greeting or welcome messages, anniversary or birthday cards, and congratulations for prominent achievement cards. As used in this Section, the term "printing" includes fees for non-substantive resolutions charged by the Clerk of the House of Representatives under subsection (c-5) of Section 1 of the Legislative Materials Act. No newsletter or brochure that is paid for, in whole or in part, with funds provided under this Section may be printed or mailed during a period beginning February 1 of the year of a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. Nothing in this Section shall be construed to authorize expenditures for lodging and meals while a member is in attendance at sessions of the General Assembly.

Any utility bill for service provided to a member's district office for a period including portions of 2 consecutive fiscal years may be paid from funds appropriated for such expenditure in either fiscal year.

If a vacancy occurs in the office of Senator or Representative in the General Assembly, any office equipment in the possession of the vacating member shall transfer to the member's successor; if the successor does not want such equipment, it shall be transferred to the Secretary of the Senate or Clerk of the House of Representatives, as the case may be, and if not wanted by other members of the General Assembly then to the Department of Central Management Services for treatment as surplus property under the State Property Control Act. Each member, on or before June 30th of each year, shall conduct an inventory of all equipment purchased pursuant to this Act. Such inventory shall be filed with the Secretary of the Senate or the Clerk of the House, as the case may be. Whenever a vacancy occurs, the Secretary of the Senate or the Clerk of the House, as the case may be, shall conduct an inventory of equipment purchased.

In the event that a member leaves office during his or her term, any unexpended or unobligated portion of the allowance granted under this Section shall lapse. The vacating member's successor shall be granted an allowance in an amount, rounded to the nearest dollar, computed by dividing the annual allowance by 365 and multiplying the quotient by the number of days remaining in the fiscal year.

From any appropriation for the purposes of this Section for a fiscal year which overlaps 2 General Assemblies, no more than 1/2 of the annual allowance per member may be spent or encumbered by any member of either the outgoing or incoming General Assembly, except that any member of the incoming General Assembly who was a member of the outgoing General Assembly may encumber or spend any portion of his annual allowance within the fiscal year.

The appropriation for the annual allowances permitted by this Section shall be included in an

appropriation to the President of the Senate and to the Speaker of the House of Representatives for their respective members. The President of the Senate and the Speaker of the House shall voucher for payment individual members' expenditures from their annual office allowances to the State Comptroller, subject to the authority of the Comptroller under Section 9 of the State Comptroller Act. (Source: P.A. 90-569, eff. 1-28-98; 91-952, eff. 7-1-01; 93 HB3412enr.)

Section 100.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Legislative Commission Reorganization Act of 1984 is amended by changing Section 9-2.5 as follows:

(25 ILCS 130/9-2.5)

Sec. 9-2.5. Newsletters and brochures. The Legislative Printing Unit may not print for any member of the General Assembly any newsletters or brochures during the period beginning February 1 of the year of a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election. A member of the General Assembly may not mail, during a period beginning February 1 of the year of a general primary election and ending the day after the general primary election and during a period beginning September 1 of the year of a general election and ending the day after the general election, any newsletters or brochures that were printed, at any time, by the Legislative Printing Unit, except that such a newsletter or brochure may be mailed during those times if it is mailed to a constituent in response to that constituent's inquiry concerning the needs of that constituent or questions raised by that constituent. (Source: 93 HB3412enr.)

Section 115.

If and only if House Bill 3412 as passed by the 93rd General Assembly becomes law by override of the Governor's amendatory veto, the Lobbyist Registration Act is amended by changing Sections 3.1 and 5 as follows:

(25 ILCS 170/3.1)

Sec. 3.1. Prohibition on serving on boards and commissions. Notwithstanding any other law of this State, on and after February 1, 2004, but not before that date, a person required to be registered under this Act, his or her spouse, and his or her immediate family members living with that person may not serve on a board, commission, authority, or task force authorized or created by State law or by executive order of the Governor; except that this restriction does not apply to any of the following:

(1) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving in an elective public office, whether elected or appointed to fill a vacancy; and

(2) a registered lobbyist, his or her spouse, or any immediate family member living with the registered lobbyist, who is serving on a State advisory body that makes nonbinding recommendations to an agency of State government but does not make binding recommendations or determinations or take any other substantive action.

(Source: 93HB3412enr.)

(25 ILCS 170/5) (from Ch. 63, par. 175) (Text of Section amended by P.A. 93-32)

Sec. 5. Lobbyist registration and disclosure. Every person required to register under Section 3 shall ~~each and every year, or before any such~~ service is performed which requires the person to register, but in any event not later than 2 business days after being employed or retained, and on or before each January 31 and July 31 thereafter, file in the Office of the Secretary of State a written statement containing the following information with respect to each person or entity employing or retaining the person required to register:

(a) The registrant's name, and permanent address, e-mail address, if any, fax number, if any, business telephone number, and temporary address, if the registrant has a temporary address while lobbying of the registrant.

(a-5) If the registrant is an organization or business entity, the information required under subsection (a) for each person associated with the registrant who will be lobbying, regardless of whether lobbying is a significant part of his or her duties.

(b) The name and address of the person or persons employing or retaining registrant to perform such services or on whose behalf the registrant appears.

(c) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

(c-5) Each executive and legislative branch agency the registrant expects to lobby during the registration period.

(c-6) The nature of the client's business, by indicating all of the following categories that apply:

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(1) banking and financial services, (2) manufacturing, (3) education, (4) environment, (5) healthcare, (6) insurance, (7) community interests, (8) labor, (9) public relations or advertising, (10) marketing or sales, (11) hospitality, (12) engineering, (13) information or technology products or services, (14) social services, (15) public utilities, (16) racing or wagering, (17) real estate or construction, (18) telecommunications, (19) trade or professional association, (20) travel or tourism, (21) transportation, and (22) other (setting forth the nature of that other business).

~~(d) A picture of the registrant.~~

The registrant must file an amendment to the statement within 14 calendar days to report any substantial change or addition to the information previously filed, except that a registrant must file an amendment to the statement to disclose a new agreement to retain the registrant for lobbying services before any service is performed which requires the person to register, but in any event not later than 2 business days after entering into the retainer agreement.

Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, or as soon thereafter as the Secretary of State has provided adequate software to the persons required to file, all statements and amendments to statements required to be filed shall be filed electronically. The Secretary of State shall promptly make all filed statements and amendments to statements publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all persons required to file. The Secretary of State shall implement a plan to provide computer access and assistance to persons required to file electronically.

Persons required to register under this Act prior to July 1, 2003, shall remit a single, annual and nonrefundable \$50 registration fee. All fees collected for registrations prior to July 1, 2003, shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act. Beginning July 1, 2003, all persons other than entities qualified under Section 501(c)(3) of the Internal Revenue Code required to register under this Act shall remit a single, annual, and nonrefundable \$350 ~~\$300~~ registration fee. Entities required to register under this Act which are qualified under Section 501(c)(3) of the Internal Revenue Code shall remit a single, annual, and nonrefundable \$150 ~~\$100~~ registration fee. Each individual required to register under this Act shall submit, on an annual basis, a picture of the registrant. A registrant may, in lieu of submitting a picture on an annual basis, authorize the Secretary of State to use any photo identification available in any database maintained by the Secretary of State for other purposes. ~~The increases in the fees from \$50 to \$100 and from \$50 to \$300 by this amendatory Act of the 93rd General Assembly are in addition to any other fee increase enacted by the 93rd or any subsequent General Assembly.~~ Of each registration fee collected for registrations on or after July 1, 2003, \$50 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act and is intended to implement and maintain electronic filing of reports under this Act, any additional amount collected as a result of any other fee increase enacted by the 93rd or any subsequent General Assembly shall be deposited into the Lobbyist Registration Administration Fund for the purposes provided by law for that fee increase, the next \$100 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act, and any balance shall be deposited into the General Revenue Fund. (Source: P.A. 93-32)

(Text of Section as amended by 93 HB3412enr.)

Sec. 5. Lobbyist registration and disclosure. Every person required to register under Section 3 shall before any service is performed which requires the person to register, but in any event not later than 2 business days after being employed or retained, and on or before each January 31 and July 31 thereafter, file in the Office of the Secretary of State a written statement containing the following information with respect to each person or entity employing or retaining the person required to register:

(a) The registrant's name, permanent address, e-mail address, if any, fax number, if any, business telephone number, and temporary address, if the registrant has a temporary address while lobbying.

(a-5) If the registrant is an organization or business entity, the information required under subsection (a) for each person associated with the registrant who will be lobbying, regardless of whether lobbying is a significant part of his or her duties.

(b) The name and address of the person or persons employing or retaining registrant to perform such services or on whose behalf the registrant appears.

(c) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

(c-5) Each executive and legislative branch agency the registrant expects to lobby during the registration period.

(c-6) The nature of the client's business, by indicating all of the following categories that apply: (1) banking and financial services, (2) manufacturing, (3) education, (4) environment, (5) healthcare,

(6) insurance, (7) community interests, (8) labor, (9) public relations or advertising, (10) marketing or sales, (11) hospitality, (12) engineering, (13) information or technology products or services, (14) social services, (15) public utilities, (16) racing or wagering, (17) real estate or construction, (18) telecommunications, (19) trade or professional association, (20) travel or tourism, (21) transportation, and (22) other (setting forth the nature of that other business).

The registrant must file an amendment to the statement within 14 calendar days to report any substantial change or addition to the information previously filed, except that a registrant must file an amendment to the statement to disclose a new agreement to retain the registrant for lobbying services before any service is performed which requires the person to register, but in any event not later than 2 business days after entering into the retainer agreement.

Not later than 12 months after the effective date of this amendatory Act of the 93rd General Assembly, or as soon thereafter as the Secretary of State has provided adequate software to the persons required to file, all statements and amendments to statements required to be filed shall be filed electronically. The Secretary of State shall promptly make all filed statements and amendments to statements publicly available by means of a searchable database that is accessible through the World Wide Web. The Secretary of State shall provide all software necessary to comply with this provision to all persons required to file. The Secretary of State shall implement a plan to provide computer access and assistance to persons required to file electronically.

Persons required to register under this Act prior to July 1, 2003, shall, ~~on an annual basis~~, remit a single, annual and nonrefundable \$50 ~~\$100~~ registration fee. All fees collected for registrations prior to July 1, 2003, shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act. Beginning July 1, 2003, all persons other than entities qualified under Section 501(c)(3) of the Internal Revenue Code required to register under this Act shall remit a single, annual, and nonrefundable \$350 registration fee. Entities required to register under this Act which are qualified under Section 501(c)(3) of the Internal Revenue Code shall remit a single, annual, and nonrefundable \$150 registration fee. Each individual required to register under this Act shall submit, on an annual basis, a picture of the registrant and a picture of the registrant. A registrant may, in lieu of submitting a picture on an annual basis, authorize the Secretary of State to use any photo identification available in any database maintained by the Secretary of State for other purposes. Of each registration fee collected for registrations on or after July 1, 2003, \$50 ~~All fees~~ shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act ~~and the increase in the fee from \$50 to \$100 by this amendatory Act and of the 93rd General Assembly is intended to be used to implement and maintain electronic filing of reports under this Act, the next \$100 shall be deposited into the Lobbyist Registration Administration Fund for administration and enforcement of this Act, and any balance shall be deposited into the General Revenue Fund, and is in addition to any other fee increase enacted by the 93rd or any subsequent General Assembly.~~ (Source: 93 HB3412enr.)

Section 990. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 995. Closed sessions; vote requirement. This Act authorizes the ethics commissions of the executive branch and legislative branch to conduct closed sessions, hearings, and meetings in certain circumstances. In order to meet the requirements of subsection (c) of Section 5 of Article IV of the Illinois Constitution, the General Assembly determines that closed sessions, hearings, and meetings of the ethics commissions, including the ethics commission for the legislative branch, are required by the public interest. Thus, this Act is enacted by the affirmative vote of two-thirds of the members elected to each house of the General Assembly.

Section 999. Effective date. This Act takes effect upon becoming law."

AMENDMENT NO. 3 TO SENATE BILL 702

AMENDMENT NO. 3. Amend Senate Bill 702, AS AMENDED, with reference to page and line numbers of House Amendment No. 2, on page 98, by replacing lines 16 through 18 with the following:

"item (l) of Section 4A-101 of this Act, shall file a statement within 30 days".

AMENDMENT NO. 4 TO SENATE BILL 702

AMENDMENT NO. 4. Amend Senate Bill 702, AS AMENDED, with reference to page and line numbers of House Amendment No. 2, as follows:
on page 13, line 19, after "quasi-adjudicatory," by inserting "investment," and

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on page 14, line 22, after "quasi-judiciary," by inserting "investment"; and on page 15, below line 13, by inserting the following: "Department of Insurance"; and on page 15, below line 19, by inserting the following: "State Employees Retirement System Board of Trustees Judges Retirement System Board of Trustees General Assembly Retirement System Board of Trustees Illinois Board of Investment State Universities Retirement System Board of Trustees Teachers Retirement System Officers Board of Trustees".

Under the rules, the foregoing **Senate Bill No. 702**, with House Amendments numbered 2, 3 and 4 was referred to the Secretary's Desk.

HOUSE BILL RECALLED

On motion of Senator Link, **House Bill No. 863** was recalled from the order of third reading to the order of second reading.

Senator Link offered the following amendment and moved its adoption:

AMENDMENT NO. 2

AMENDMENT NO. 2. Amend House Bill 863 by replacing everything after the enacting clause with the following:

"Section 5. The Illinois Income Tax Act is amended by changing Section 203 as follows:

(35 ILCS 5/203) (from Ch. 120, par. 2-203)

Sec. 203. Base income defined.

(a) Individuals.

(1) In general. In the case of an individual, base income means an amount equal to the taxpayer's adjusted gross income for the taxable year as modified by paragraph (2).

(2) Modifications. The adjusted gross income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of adjusted gross income, except stock dividends of qualified public utilities described in Section 305(e) of the Internal Revenue Code;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of adjusted gross income for the taxable year;

(C) An amount equal to the amount received during the taxable year as a recovery or refund of real property taxes paid with respect to the taxpayer's principal residence under the Revenue Act of 1939 and for which a deduction was previously taken under subparagraph (L) of this paragraph (2) prior to July 1, 1991, the retrospective application date of Article 4 of Public Act 87-17. In the case of multi-unit or multi-use structures and farm dwellings, the taxes on the taxpayer's principal residence shall be that portion of the total taxes for the entire property which is attributable to such principal residence;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of adjusted gross income;

(D-5) An amount, to the extent not included in adjusted gross income, equal to the amount of money withdrawn by the taxpayer in the taxable year from a medical care savings account and the interest earned on the account in the taxable year of a withdrawal pursuant to subsection (b) of Section 20 of the Medical Care Savings Account Act or subsection (b) of Section 20 of the Medical Care Savings Account Act of 2000;

(D-10) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the individual deducted in computing adjusted gross income and for which the individual claims a credit under subsection (l) of Section 201;

(D-15) For taxable years ending after December 31, 2000 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) taken on the taxpayer's federal income

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tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code with respect to any property and, for taxable years ending on or after December 31, 2003, an amount equal to any deduction taken for the taxable year under Section 179 of the Internal Revenue Code with respect to any property; and

(D-16) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (Z) or (Z-1) with respect to that property; ~~and~~

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property; ~~and~~

(D-20) ~~(D-15)~~ For taxable years beginning on or after January 1, 2002, in the case of a distribution from a qualified tuition program under Section 529 of the Internal Revenue Code, other than (i) a distribution from a College Savings Pool created under Section 16.5 of the State Treasurer Act or (ii) a distribution from the Illinois Prepaid Tuition Trust Fund, an amount equal to the amount excluded from gross income under Section 529(c)(3)(B); and by deducting from the total so obtained the sum of the following amounts:

(E) For taxable years ending before December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being on active duty in the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 1971 or thereafter for annual training performed pursuant to Sections 502 and 503, Title 32, United States Code as a member of the Illinois National Guard. For taxable years ending on or after December 31, 2001, any amount included in such total in respect of any compensation (including but not limited to any compensation paid or accrued to a serviceman while a prisoner of war or missing in action) paid to a resident by reason of being a member of any component of the Armed Forces of the United States and in respect of any compensation paid or accrued to a resident who as a governmental employee was a prisoner of war or missing in action, and in respect of any compensation paid to a resident in 2001 or thereafter by reason of being a member of the Illinois National Guard. The provisions of this amendatory Act of the 92nd General Assembly are exempt from the provisions of Section 250;

(F) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code, or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(G) The valuation limitation amount;

(H) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(I) An amount equal to all amounts included in such total pursuant to the provisions of Section 111 of the Internal Revenue Code as a recovery of items previously deducted from adjusted gross income in the computation of taxable income;

(J) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, and conducts substantially all of its operations in an Enterprise Zone or zones;

(K) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (J) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (K);

(L) For taxable years ending after December 31, 1983, an amount equal to all social security benefits and railroad retirement benefits included in such total pursuant to Sections 72(r) and 86 of the Internal Revenue Code;

(M) With the exception of any amounts subtracted under subparagraph (N), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses

allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(N) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(O) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) An amount equal to any amounts included in such total, received by the taxpayer as an acceleration in the payment of life, endowment or annuity benefits in advance of the time they would otherwise be payable as an indemnity for a terminal illness;

(R) An amount equal to the amount of any federal or State bonus paid to veterans of the Persian Gulf War;

(S) An amount, to the extent included in adjusted gross income, equal to the amount of a contribution made in the taxable year on behalf of the taxpayer to a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 to the extent the contribution is accepted by the account administrator as provided in that Act;

(T) An amount, to the extent included in adjusted gross income, equal to the amount of interest earned in the taxable year on a medical care savings account established under the Medical Care Savings Account Act or the Medical Care Savings Account Act of 2000 on behalf of the taxpayer, other than interest added pursuant to item (D-5) of this paragraph (2);

(U) For one taxable year beginning on or after January 1, 1994, an amount equal to the total amount of tax imposed and paid under subsections (a) and (b) of Section 201 of this Act on grant amounts received by the taxpayer under the Nursing Home Grant Assistance Act during the taxpayer's taxable years 1992 and 1993;

(V) Beginning with tax years ending on or after December 31, 1995 and ending with tax years ending on or before December 31, 2004, an amount equal to the amount paid by a taxpayer who is a self-employed taxpayer, a partner of a partnership, or a shareholder in a Subchapter S corporation for health insurance or long-term care insurance for that taxpayer or that taxpayer's spouse or dependents, to the extent that the amount paid for that health insurance or long-term care insurance may be deducted under Section 213 of the Internal Revenue Code of 1986, has not been deducted on the federal income tax return of the taxpayer, and does not exceed the taxable income attributable to that taxpayer's income, self-employment income, or Subchapter S corporation income; except that no deduction shall be allowed under this item (V) if the taxpayer is eligible to participate in any health insurance or long-term care insurance plan of an employer of the taxpayer or the taxpayer's spouse. The amount of the health insurance and long-term care insurance subtracted under this item (V) shall be determined by multiplying total health insurance and long-term care insurance premiums paid by the taxpayer times a number that represents the fractional percentage of eligible medical expenses under Section 213 of the Internal Revenue Code of 1986 not actually deducted on the taxpayer's federal income tax return;

(W) For taxable years beginning on or after January 1, 1998, all amounts included in the taxpayer's federal gross income in the taxable year from amounts converted from a regular IRA to a Roth IRA. This paragraph is exempt from the provisions of Section 250;

(X) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious

reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(Y) For taxable years beginning on or after January 1, 2002, moneys contributed in the taxable year to a College Savings Pool account under Section 16.5 of the State Treasurer Act, except that amounts excluded from gross income under Section 529(c)(3)(C)(i) of the Internal Revenue Code shall not be considered moneys contributed under this subparagraph (Y). This subparagraph (Y) is exempt from the provisions of Section 250;

~~(Z) For each taxable years 2001 and thereafter, for the taxable year ending prior to December 31, 2003~~ in which the bonus depreciation deduction (30% ~~or 50%~~ of the adjusted basis of the qualified property) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each ~~subsequent applicable~~ taxable year ~~ending prior to December 31, 2003~~ thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (30% ~~or 50%~~ of the adjusted basis of the qualified property) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; and

~~(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429) and, for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.~~

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (30% ~~or 50%~~ of the adjusted basis of the qualified property) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code; ~~and~~

~~(Z-1) For taxable years ending on or after December 31, 2003, an amount equal to the excess, if any, of the federal adjusted gross income properly reportable by the taxpayer for the taxable year, plus any addition required to be made under subparagraph (D-15) for the taxable year, over the adjusted gross income that would have been reportable by the taxpayer if the taxpayer:~~

~~(1) had made the election in subsection (k)(2)(C)(iii) of Section 168 of the Internal Revenue Code for all property qualifying for bonus depreciation (30% or 50% of the adjusted basis of the qualifying property) for all taxable years; and~~

~~(2) had made no election under Section 179(a) of the Internal Revenue Code for any taxable year ending on or after December 31, 2003 to treat the cost of any property as an expense.~~

~~This subparagraph (Z-1) is exempt from the provisions of Section 250;~~

(AA) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-15), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property; and

~~(BB) (Z)~~ Any amount included in adjusted gross income, other than salary, received by a driver in a ridesharing arrangement using a motor vehicle.

(b) Corporations.

(1) In general. In the case of a corporation, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest and all distributions received from regulated investment companies during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(C) In the case of a regulated investment company, an amount equal to the excess of (i) the net long-term capital gain for the taxable year, over (ii) the amount of the capital gain dividends designated as such in accordance with Section 852(b)(3)(C) of the Internal Revenue Code and any amount designated under Section 852(b)(3)(D) of the Internal Revenue Code, attributable to the taxable year (this amendatory Act of 1995 (Public Act 89-89) is declarative of existing law and is not a new enactment);

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such earlier taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(E-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the corporation deducted in computing adjusted gross income and for which the corporation claims a credit under subsection (l) of Section 201;

(E-10) For taxable years ending after December 31, 2000 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction

(30% or 50% of the adjusted basis of the qualified property) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code with respect to any property and, for taxable years ending on or after December 31, 2003, an amount equal to any deduction taken for the taxable year under Section 179 of the Internal Revenue Code with respect to any property; and

(E-11) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (T) or (T-1) with respect to that property. †

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property;

and by deducting from the total so obtained the sum of the following amounts:

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to any amount included in such total under Section 78 of the Internal Revenue Code;

(H) In the case of a regulated investment company, an amount equal to the amount of exempt interest dividends as defined in subsection (b) (5) of Section 852 of the Internal Revenue Code, paid to shareholders for the taxable year;

(I) With the exception of any amounts subtracted under subparagraph (J), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(a)(2) and amounts disallowed as interest expense by Section 291(a)(3) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(a)(1) of the Internal Revenue Code, as now or hereafter amended; and

(ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, 291(a)(3), and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(J) An amount equal to all amounts included in such total which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act and conducts substantially all of its operations in an Enterprise Zone or zones;

(L) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph 2 of this subsection shall not be eligible for the deduction provided under this subparagraph (L);

(M) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the Enterprise Zone Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(f) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(f) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in the Enterprise Zone. The subtraction modification available to taxpayer in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(M-1) For any taxpayer that is a financial organization within the meaning of Section 304(c) of this Act, an amount included in such total as interest income from a loan or loans made by such taxpayer to a borrower, to the extent that such a loan is secured by property which is eligible for the High Impact Business Investment Credit. To determine the portion of a loan or loans that is secured by property eligible for a Section 201(h) investment credit to the borrower, the entire principal amount of the loan or loans between the taxpayer and the borrower should be divided into the basis of the Section 201(h) investment credit property which secures the loan or loans, using for this purpose the original basis of such property on the date that it was placed in service in a federally designated Foreign Trade Zone or Sub-Zone located in Illinois. No taxpayer that is eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall be eligible for the deduction provided under this subparagraph (M-1). The subtraction modification available to taxpayers in any year under this subsection shall be that portion of the total interest paid by the borrower with respect to such loan attributable to the eligible property as calculated under the previous sentence;

(N) Two times any contribution made during the taxable year to a designated zone organization to the extent that the contribution (i) qualifies as a charitable contribution under subsection (c) of Section 170 of the Internal Revenue Code and (ii) must, by its terms, be used for a project approved by the Department of Commerce and Economic Opportunity Community Affairs under Section 11 of the Illinois Enterprise Zone Act;

(O) An amount equal to: (i) 85% for taxable years ending on or before December 31, 1992, or, a percentage equal to the percentage allowable under Section 243(a)(1) of the Internal Revenue Code of 1986 for taxable years ending after December 31, 1992, of the amount by which dividends included in taxable income and received from a corporation that is not created or organized under the laws of the United States or any state or political subdivision thereof, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends; plus (ii) 100% of the amount by which dividends, included in taxable income and received, including, for taxable years ending on or after December 31, 1988, dividends received or deemed received or paid or deemed paid under Sections 951 through 964 of the Internal Revenue Code, from any such corporation specified in clause (i) that

would but for the provisions of Section 1504 (b) (3) of the Internal Revenue Code be treated as a member of the affiliated group which includes the dividend recipient, exceed the amount of the modification provided under subparagraph (G) of paragraph (2) of this subsection (b) which is related to such dividends;

(P) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(Q) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(R) In the case of an attorney-in-fact with respect to whom an interinsurer or a reciprocal insurer has made the election under Section 835 of the Internal Revenue Code, 26 U.S.C. 835, an amount equal to the excess, if any, of the amounts paid or incurred by that interinsurer or reciprocal insurer in the taxable year to the attorney-in-fact over the deduction allowed to that interinsurer or reciprocal insurer with respect to the attorney-in-fact under Section 835(b) of the Internal Revenue Code for the taxable year;

(S) For taxable years ending on or after December 31, 1997, in the case of a Subchapter S corporation, an amount equal to all amounts of income allocable to a shareholder subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act, including amounts allocable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code. This subparagraph (S) is exempt from the provisions of Section 250;

(T) For each taxable year 2001 and thereafter, for the taxable year ending prior to December 31, 2003 in which the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each subsequent applicable taxable year ending prior to December 31, 2003 thereafter, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429) and, for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code;

(T-1) For taxable years ending on or after December 31, 2003, an amount equal to the excess, if any, of the federal taxable income properly reportable by the taxpayer for the taxable year, plus any addition required to be made under subparagraph (E-10) for the taxable year, over the taxable income that would have been reportable by the taxpayer if the taxpayer:

(1) had made the election in subsection (k)(2)(C)(iii) of Section 168 of the Internal Revenue Code for all property qualifying for bonus depreciation (30% or 50% of the adjusted basis of the qualifying property) for all taxable years; and

(2) had made no election under Section 179(a) of the Internal Revenue Code for any taxable year ending on or after December 31, 2003 to treat the cost of any property as an expense.

This subparagraph (T-1) is exempt from the provisions of Section 250; and

(U) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (E-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

(3) Special rule. For purposes of paragraph (2) (A), "gross income" in the case of a life insurance company, for tax years ending on and after December 31, 1994, shall mean the gross investment income for the taxable year.

(c) Trusts and estates.

(1) In general. In the case of a trust or estate, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. Subject to the provisions of paragraph (3), the taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) In the case of (i) an estate, \$600; (ii) a trust which, under its governing instrument, is required to distribute all of its income currently, \$300; and (iii) any other trust, \$100, but in each such case, only to the extent such amount was deducted in the computation of taxable income;

(C) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income in the computation of taxable income for the taxable year;

(D) The amount of any net operating loss deduction taken in arriving at taxable income, other than a net operating loss carried forward from a taxable year ending prior to December 31, 1986;

(E) For taxable years in which a net operating loss carryback or carryforward from a taxable year ending prior to December 31, 1986 is an element of taxable income under paragraph (1) of subsection (e) or subparagraph (E) of paragraph (2) of subsection (e), the amount by which addition modifications other than those provided by this subparagraph (E) exceeded subtraction modifications in such taxable year, with the following limitations applied in the order that they are listed:

(i) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall be reduced by the amount of addition modification under this subparagraph (E) which related to that net operating loss and which was taken into account in calculating the base income of an earlier taxable year, and

(ii) the addition modification relating to the net operating loss carried back or forward to the taxable year from any taxable year ending prior to December 31, 1986 shall not exceed the amount of such carryback or carryforward;

For taxable years in which there is a net operating loss carryback or carryforward from more than one other taxable year ending prior to December 31, 1986, the addition modification provided in this subparagraph (E) shall be the sum of the amounts computed independently under the preceding provisions of this subparagraph (E) for each such taxable year;

(F) For taxable years ending on or after January 1, 1989, an amount equal to the tax deducted pursuant to Section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit under Section 601 of this Act;

(G) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(G-5) For taxable years ending after December 31, 1997, an amount equal to any eligible remediation costs that the trust or estate deducted in computing adjusted gross income and for which the trust or estate claims a credit under subsection (l) of Section 201;

(G-10) For taxable years ending after December 31, 2000 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction

(30% or 50% of the adjusted basis of the qualified property) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code with respect to any property and, for taxable years ending on or after December 31, 2003, an amount equal to any deduction taken for the taxable year under Section 179 of the Internal Revenue Code with respect to any property; and

(G-11) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (R) or (R-1) with respect to that property. ;

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property; and by deducting from the total so obtained the sum of the following amounts:

(H) An amount equal to all amounts included in such total pursuant to the provisions of Sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a) and 408 of the Internal Revenue Code or included in such total as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self employment by Section 1402 of the Internal Revenue Code and regulations adopted pursuant thereto;

(I) The valuation limitation amount;

(J) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(K) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C), (D), (E), (F) and (G) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(L) With the exception of any amounts subtracted under subparagraph (K), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2) and 265(a)(2) of the Internal Revenue Code, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code of 1954, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(M) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act and conducts substantially all of its operations in an Enterprise Zone or Zones;

(N) An amount equal to any contribution made to a job training project established pursuant to the Tax Increment Allocation Redevelopment Act;

(O) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (M) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (O);

(P) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(Q) For taxable year 1999 and thereafter, an amount equal to the amount of any (i) distributions, to the extent includible in gross income for federal income tax purposes, made to the taxpayer because of his or her status as a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim and (ii) items of income, to the extent includible in gross income for federal income tax purposes, attributable to, derived from or in any way related to assets stolen from, hidden from, or otherwise lost to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime immediately prior to, during, and immediately after World War II, including, but not limited to, interest on the proceeds receivable as insurance under policies issued to a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime by European insurance companies immediately prior to and during World War II; provided, however, this subtraction from federal adjusted gross income does not apply to assets acquired with such assets or with the proceeds from the sale of such assets; provided, further, this paragraph shall only apply to a taxpayer who was the first recipient of such assets after their recovery and who is a victim of persecution for racial or religious reasons by Nazi Germany or any other Axis regime or as an heir of the victim. The amount of and the eligibility for any public assistance, benefit, or similar entitlement is not affected by the inclusion of items (i) and (ii) of this paragraph in gross income for federal income tax purposes. This paragraph is exempt from the provisions of Section 250;

(R) For ~~each taxable year 2001 and thereafter, for the taxable year ending prior to December 31, 2003~~ in which the bonus depreciation deduction (30% ~~or 50%~~ of the adjusted basis of the qualified property) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each ~~subsequent applicable taxable year ending prior to December 31, 2003~~ thereafter, an amount equal to "x", where:

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(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429) and, for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any one piece of property may not exceed the amount of the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code;

(R-1) For taxable years ending on or after December 31, 2003, an amount equal to the excess, if any, of the federal taxable income properly reportable by the taxpayer for the taxable year, plus any addition required to be made under subparagraph (G-10) for the taxable year, over the taxable income that would have been reportable by the taxpayer if the taxpayer:

(1) had made the election in subsection (k)(2)(C)(iii) of Section 168 of the Internal Revenue Code for all property qualifying for bonus depreciation (30% or 50% of the adjusted basis of the qualifying property) for all taxable years; and

(2) had made no election under Section 179(a) of the Internal Revenue Code for any taxable year ending on or after December 31, 2003 to treat the cost of any property as an expense.

This subparagraph (R-1) is exempt from the provisions of Section 250; and

(S) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (G-10), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

(3) Limitation. The amount of any modification otherwise required under this subsection shall, under regulations prescribed by the Department, be adjusted by any amounts included therein which were properly paid, credited, or required to be distributed, or permanently set aside for charitable purposes pursuant to Internal Revenue Code Section 642(c) during the taxable year.

(d) Partnerships.

(1) In general. In the case of a partnership, base income means an amount equal to the taxpayer's taxable income for the taxable year as modified by paragraph (2).

(2) Modifications. The taxable income referred to in paragraph (1) shall be modified by adding thereto the sum of the following amounts:

(A) An amount equal to all amounts paid or accrued to the taxpayer as interest or dividends during the taxable year to the extent excluded from gross income in the computation of taxable income;

(B) An amount equal to the amount of tax imposed by this Act to the extent deducted from gross income for the taxable year;

(C) The amount of deductions allowed to the partnership pursuant to Section 707 (c) of the Internal Revenue Code in calculating its taxable income;

(D) An amount equal to the amount of the capital gain deduction allowable under the Internal Revenue Code, to the extent deducted from gross income in the computation of taxable income;

(D-5) For taxable years ending after December 31, 2000 ~~2001 and thereafter~~, an amount equal to the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) taken on the taxpayer's federal income tax return for the taxable year under subsection (k) of Section 168 of the Internal Revenue Code with respect to any property and, for taxable years ending on or after December 31, 2003, an amount equal to any deduction taken for the taxable year under Section 179 of the Internal Revenue Code with respect to any property; and

(D-6) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer

was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to the aggregate amount of the deductions taken in all taxable years under subparagraph (O) or (O-1) with respect to that property;

The taxpayer is required to make the addition modification under this subparagraph only once with respect to any one piece of property; and by deducting from the total so obtained the following amounts:

(E) The valuation limitation amount;

(F) An amount equal to the amount of any tax imposed by this Act which was refunded to the taxpayer and included in such total for the taxable year;

(G) An amount equal to all amounts included in taxable income as modified by subparagraphs (A), (B), (C) and (D) which are exempt from taxation by this State either by reason of its statutes or Constitution or by reason of the Constitution, treaties or statutes of the United States; provided that, in the case of any statute of this State that exempts income derived from bonds or other obligations from the tax imposed under this Act, the amount exempted shall be the interest net of bond premium amortization;

(H) Any income of the partnership which constitutes personal service income as defined in Section 1348 (b) (1) of the Internal Revenue Code (as in effect December 31, 1981) or a reasonable allowance for compensation paid or accrued for services rendered by partners to the partnership, whichever is greater;

(I) An amount equal to all amounts of income distributable to an entity subject to the Personal Property Tax Replacement Income Tax imposed by subsections (c) and (d) of Section 201 of this Act including amounts distributable to organizations exempt from federal income tax by reason of Section 501(a) of the Internal Revenue Code;

(J) With the exception of any amounts subtracted under subparagraph (G), an amount equal to the sum of all amounts disallowed as deductions by (i) Sections 171(a) (2), and 265(2) of the Internal Revenue Code of 1954, as now or hereafter amended, and all amounts of expenses allocable to interest and disallowed as deductions by Section 265(1) of the Internal Revenue Code, as now or hereafter amended; and (ii) for taxable years ending on or after August 13, 1999, Sections 171(a)(2), 265, 280C, and 832(b)(5)(B)(i) of the Internal Revenue Code; the provisions of this subparagraph are exempt from the provisions of Section 250;

(K) An amount equal to those dividends included in such total which were paid by a corporation which conducts business operations in an Enterprise Zone or zones created under the Illinois Enterprise Zone Act, enacted by the 82nd General Assembly, and conducts substantially all of its operations in an Enterprise Zone or Zones;

(L) An amount equal to any contribution made to a job training project established pursuant to the Real Property Tax Increment Allocation Redevelopment Act;

(M) An amount equal to those dividends included in such total that were paid by a corporation that conducts business operations in a federally designated Foreign Trade Zone or Sub-Zone and that is designated a High Impact Business located in Illinois; provided that dividends eligible for the deduction provided in subparagraph (K) of paragraph (2) of this subsection shall not be eligible for the deduction provided under this subparagraph (M);

(N) An amount equal to the amount of the deduction used to compute the federal income tax credit for restoration of substantial amounts held under claim of right for the taxable year pursuant to Section 1341 of the Internal Revenue Code of 1986;

(O) For each ~~taxable years 2001 and thereafter, for the~~ taxable year ending prior to December 31, 2003 in which the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) is taken on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code and for each subsequent applicable taxable year ending prior to December 31, 2003 ~~thereafter~~, an amount equal to "x", where:

(1) "y" equals the amount of the depreciation deduction taken for the taxable year on the taxpayer's federal income tax return on property for which the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) was taken in any year under subsection (k) of Section 168 of the Internal Revenue Code, but not including the bonus depreciation deduction; and

(2) for property on which a bonus depreciation deduction of 30% of the adjusted basis was taken, "x" equals "y" multiplied by 30 and then divided by 70 (or "y" multiplied by 0.429) and, for property on which a bonus depreciation deduction of 50% of the adjusted basis was taken, "x" equals "y" multiplied by 1.0.

The aggregate amount deducted under this subparagraph in all taxable years for any

one piece of property may not exceed the amount of the bonus depreciation deduction (30% or 50% of the adjusted basis of the qualified property) taken on that property on the taxpayer's federal income tax return under subsection (k) of Section 168 of the Internal Revenue Code;

(O-1) For taxable years ending on or after December 31, 2003, an amount equal to the excess, if any, of the federal taxable income properly reportable by the taxpayer for the taxable year, plus any addition required to be made under subparagraph (D-5) for the taxable year, over the taxable income that would have been reportable by the taxpayer if the taxpayer:

— (1) had made the election in subsection (k)(2)(C)(iii) of Section 168 of the Internal Revenue Code for all property qualifying for bonus depreciation (30% or 50% of the adjusted basis of the qualifying property) for all taxable years; and

— (2) had made no election under Section 179(a) of the Internal Revenue Code for any taxable year ending on or after December 31, 2003 to treat the cost of any property as an expense.

This subparagraph (O-1) is exempt from the provisions of Section 250; and

(P) If the taxpayer reports a capital gain or loss on the taxpayer's federal income tax return for the taxable year based on a sale or transfer of property for which the taxpayer was required in any taxable year to make an addition modification under subparagraph (D-5), then an amount equal to that addition modification.

The taxpayer is allowed to take the deduction under this subparagraph only once with respect to any one piece of property.

(e) Gross income; adjusted gross income; taxable income.

(1) In general. Subject to the provisions of paragraph (2) and subsection (b) (3), for purposes of this Section and Section 803(e), a taxpayer's gross income, adjusted gross income, or taxable income for the taxable year shall mean the amount of gross income, adjusted gross income or taxable income properly reportable for federal income tax purposes for the taxable year under the provisions of the Internal Revenue Code. Taxable income may be less than zero. However, for taxable years ending on or after December 31, 1986, net operating loss carryforwards from taxable years ending prior to December 31, 1986, may not exceed the sum of federal taxable income for the taxable year before net operating loss deduction, plus the excess of addition modifications over subtraction modifications for the taxable year. For taxable years ending prior to December 31, 1986, taxable income may never be an amount in excess of the net operating loss for the taxable year as defined in subsections (c) and (d) of Section 172 of the Internal Revenue Code, provided that when taxable income of a corporation (other than a Subchapter S corporation), trust, or estate is less than zero and addition modifications, other than those provided by subparagraph (E) of paragraph (2) of subsection (b) for corporations or subparagraph (E) of paragraph (2) of subsection (e) for trusts and estates, exceed subtraction modifications, an addition modification must be made under those subparagraphs for any other taxable year to which the taxable income less than zero (net operating loss) is applied under Section 172 of the Internal Revenue Code or under subparagraph (E) of paragraph (2) of this subsection (e) applied in conjunction with Section 172 of the Internal Revenue Code.

(2) Special rule. For purposes of paragraph (1) of this subsection, the taxable income properly reportable for federal income tax purposes shall mean:

(A) Certain life insurance companies. In the case of a life insurance company subject to the tax imposed by Section 801 of the Internal Revenue Code, life insurance company taxable income, plus the amount of distribution from pre-1984 policyholder surplus accounts as calculated under Section 815a of the Internal Revenue Code;

(B) Certain other insurance companies. In the case of mutual insurance companies subject to the tax imposed by Section 831 of the Internal Revenue Code, insurance company taxable income;

(C) Regulated investment companies. In the case of a regulated investment company subject to the tax imposed by Section 852 of the Internal Revenue Code, investment company taxable income;

(D) Real estate investment trusts. In the case of a real estate investment trust subject to the tax imposed by Section 857 of the Internal Revenue Code, real estate investment trust taxable income;

(E) Consolidated corporations. In the case of a corporation which is a member of an affiliated group of corporations filing a consolidated income tax return for the taxable year for federal income tax purposes, taxable income determined as if such corporation had filed a separate return for federal income tax purposes for the taxable year and each preceding taxable year for which it was a member of an affiliated group. For purposes of this subparagraph, the taxpayer's

separate taxable income shall be determined as if the election provided by Section 243(b) (2) of the Internal Revenue Code had been in effect for all such years;

(F) Cooperatives. In the case of a cooperative corporation or association, the taxable income of such organization determined in accordance with the provisions of Section 1381 through 1388 of the Internal Revenue Code;

(G) Subchapter S corporations. In the case of: (i) a Subchapter S corporation for which there is in effect an election for the taxable year under Section 1362 of the Internal Revenue Code, the taxable income of such corporation determined in accordance with Section 1363(b) of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 1363(b)(1) of the Internal Revenue Code to be separately stated; and (ii) a Subchapter S corporation for which there is in effect a federal election to opt out of the provisions of the Subchapter S Revision Act of 1982 and have applied instead the prior federal Subchapter S rules as in effect on July 1, 1982, the taxable income of such corporation determined in accordance with the federal Subchapter S rules as in effect on July 1, 1982; and

(H) Partnerships. In the case of a partnership, taxable income determined in accordance with Section 703 of the Internal Revenue Code, except that taxable income shall take into account those items which are required by Section 703(a)(1) to be separately stated but which would be taken into account by an individual in calculating his taxable income.

(f) Valuation limitation amount.

(1) In general. The valuation limitation amount referred to in subsections (a) (2)

(G), (c) (2) (I) and (d)(2) (E) is an amount equal to:

(A) The sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of gain reportable under the provisions of Section 1245 or 1250 of the Internal Revenue Code) for all property in respect of which such gain was reported for the taxable year; plus

(B) The lesser of (i) the sum of the pre-August 1, 1969 appreciation amounts (to the extent consisting of capital gain) for all property in respect of which such gain was reported for federal income tax purposes for the taxable year, or (ii) the net capital gain for the taxable year, reduced in either case by any amount of such gain included in the amount determined under subsection (a) (2) (F) or (c) (2) (H).

(2) Pre-August 1, 1969 appreciation amount.

(A) If the fair market value of property referred to in paragraph (1) was readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is the lesser of (i) the excess of such fair market value over the taxpayer's basis (for determining gain) for such property on that date (determined under the Internal Revenue Code as in effect on that date), or (ii) the total gain realized and reportable for federal income tax purposes in respect of the sale, exchange or other disposition of such property.

(B) If the fair market value of property referred to in paragraph (1) was not readily ascertainable on August 1, 1969, the pre-August 1, 1969 appreciation amount for such property is that amount which bears the same ratio to the total gain reported in respect of the property for federal income tax purposes for the taxable year, as the number of full calendar months in that part of the taxpayer's holding period for the property ending July 31, 1969 bears to the number of full calendar months in the taxpayer's entire holding period for the property.

(C) The Department shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph.

(g) Double deductions. Unless specifically provided otherwise, nothing in this Section shall permit the same item to be deducted more than once.

(h) Legislative intention. Except as expressly provided by this Section there shall be no modifications or limitations on the amounts of income, gain, loss or deduction taken into account in determining gross income, adjusted gross income or taxable income for federal income tax purposes for the taxable year, or in the amount of such items entering into the computation of base income and net income under this Act for such taxable year, whether in respect of property values as of August 1, 1969 or otherwise.

(Source: P.A. 91-192, eff. 7-20-99; 91-205, eff. 7-20-99; 91-357, eff. 7-29-99; 91-541, eff. 8-13-99; 91-676, eff. 12-23-99; 91-845, eff. 6-22-00; 91-913, eff. 1-1-01; 92-16, eff. 6-28-01; 92-244, eff. 8-3-01; 92-439, eff. 8-17-01; 92-603, eff. 6-28-02; 92-626, eff. 7-11-02; 92-651, eff. 7-11-02; 92-846, eff. 8-23-02; revised 10-15-03.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Link, **House Bill No. 863**, having been printed as received from the House of Representatives, together with all Senate amendments adopted thereto, was taken up and read by title a third time.

Pending roll call on motion of Senator Link, further consideration of **House Bill No. 863** was postponed.

LEGISLATIVE MEASURES FILED

The following Floor amendments to the House Bills listed below have been filed with the Secretary, and referred to the Committee on Rules:

Senate Floor Amendment No. 3 to House Bill 701
 Senate Floor Amendment No. 1 to House Bill 950
 Senate Floor Amendment No. 1 to House Bill 1045
 Senate Floor Amendment No. 1 to House Bill 2654
 Senate Floor Amendment No. 1 to House Bill 2655
 Senate Floor Amendment No. 1 to House Bill 2656
 Senate Floor Amendment No. 1 to House Bill 2657
 Senate Floor Amendment No. 1 to Senate Bill 950

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendments 2, 3 and 4 to Senate Bill 702

REPORT FROM RULES COMMITTEE

Senator Demuzio, Chairperson of the Committee on Rules, during its November 20, 2003 meeting, reported the following Joint Action Motions have been assigned to the indicated Standing Committees of the Senate:

Executive: **Motion to Concur in House Amendment 1 to Senate Bill 20; Motion to Concur in House Amendments 2, 3 and 4 to Senate Bill 702; Motion to Concur in House Amendment 2 to Senate Bill 857**

Revenue: **Motion to Concur in House Amendments 2 and 4 to Senate Bill 1883**

Senator Demuzio, Chairperson of the Committee on Rules, during its November 20, 2003 meeting, reported the following Legislative Measures have been assigned to the indicated Standing Committee of the Senate:

Executive: **Senate Floor Amendment No. 3 to House Bill 701; Senate Floor Amendment No. 1 to House Bill 2654; Senate Floor Amendment No. 1 to House Bill 2655; Senate Floor Amendment No. 1 to House Bill 2656; Senate Floor Amendment No. 1 to House Bill 2657.**

Senator Demuzio, Chairperson of the Committee on Rules, to which was referred **Senate Bill No. 950** and **House Bill 1045** on July 1, 2003, pursuant to Rule 3-9(b), reported that the Committee

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recommends that the bill be approved for consideration and returned to the calendar in its former position.

The report of the Committee was concurred in.

And **Senate Bill No. 950** and **House Bill 1045** were returned to the order of third reading.

MESSAGE FROM THE HOUSE

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 1946

A bill for AN ACT concerning mass transit.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 1946

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 1946

AMENDMENT NO. 1 _____. Amend Senate Bill 1946 by replacing everything after the enacting clause with the following:

"Section 5.

The Local Mass Transit District Act is amended by changing Section 5.01 as follows:

(70 ILCS 3610/5.01) (from Ch. 111 2/3, par. 355.01)

Sec. 5.01. Metro East Mass Transit District; use and occupation taxes. (a) The Board of Trustees of any Metro East Mass Transit District may, by ordinance adopted with the concurrence of two-thirds of the then trustees, impose throughout the District any or all of the taxes and fees provided in this Section. All taxes and fees imposed under this Section shall be used only for public mass transportation systems, and the amount used to provide mass transit service to unserved areas of the District shall be in the same proportion to the total proceeds as the number of persons residing in the unserved areas is to the total population of the District. Except as otherwise provided in this Act, taxes imposed under this Section and civil penalties imposed incident thereto shall be collected and enforced by the State Department of Revenue. The Department shall have the power to administer and enforce the taxes and to determine all rights for refunds for erroneous payments of the taxes.

(b) The Board may impose a Metro East Mass Transit District Retailers' Occupation Tax upon all persons engaged in the business of selling tangible personal property at retail in the district at a rate of 1/4 of 1%, or as authorized under subsection (d-5) of this Section, of the gross receipts from the sales made in the course of such business within the district. The tax imposed under this Section and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this Section; to collect all taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with, this Section, the Department and persons who are subject to this Section shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 1a-1, 1c, 1d, 1e, 1f, 1i, 1j, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2c, 3 (except as to the disposition of taxes and penalties collected), 4, 5, 5a, 5c, 5d, 5e, 5f, 5g, 5h, 5i, 5j, 5k, 5l, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 12, 13, and 14 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the Section may reimburse themselves for their seller's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State taxes that sellers are required to collect under the Use Tax Act, in accordance with such bracket schedules as the Department may prescribe.

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Whenever the Department determines that a refund should be made under this Section to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Metro East Mass Transit District tax fund established under paragraph (g) of this Section.

If a tax is imposed under this subsection (b), a tax shall also be imposed under subsections (c) and (d) of this Section.

For the purpose of determining whether a tax authorized under this Section is applicable, a retail sale, by a producer of coal or other mineral mined in Illinois, is a sale at retail at the place where the coal or other mineral mined in Illinois is extracted from the earth. This paragraph does not apply to coal or other mineral when it is delivered or shipped by the seller to the purchaser at a point outside Illinois so that the sale is exempt under the Federal Constitution as a sale in interstate or foreign commerce.

Nothing in this Section shall be construed to authorize the Metro East Mass Transit District to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by this State.

(c) If a tax has been imposed under subsection (b), a Metro East Mass Transit District Service Occupation Tax shall also be imposed upon all persons engaged, in the district, in the business of making sales of service, who, as an incident to making those sales of service, transfer tangible personal property within the District, either in the form of tangible personal property or in the form of real estate as an incident to a sale of service. The tax rate shall be 1/4%, or as authorized under subsection (d-5) of this Section, of the selling price of tangible personal property so transferred within the district. The tax imposed under this paragraph and all civil penalties that may be assessed as an incident thereof shall be collected and enforced by the State Department of Revenue. The Department shall have full power to administer and enforce this paragraph; to collect all taxes and penalties due hereunder; to dispose of taxes and penalties so collected in the manner hereinafter provided; and to determine all rights to credit memoranda arising on account of the erroneous payment of tax or penalty hereunder. In the administration of, and compliance with this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure as are prescribed in Sections 1a-1, 2 (except that the reference to State in the definition of supplier maintaining a place of business in this State shall mean the Authority), 2a, 3 through 3-50 (in respect to all provisions therein other than the State rate of tax), 4 (except that the reference to the State shall be to the Authority), 5, 7, 8 (except that the jurisdiction to which the tax shall be a debt to the extent indicated in that Section 8 shall be the District), 9 (except as to the disposition of taxes and penalties collected, and except that the returned merchandise credit for this tax may not be taken against any State tax), 10, 11, 12 (except the reference therein to Section 2b of the Retailers' Occupation Tax Act), 13 (except that any reference to the State shall mean the District), the first paragraph of Section 15, 16, 17, 18, 19 and 20 of the Service Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, as fully as if those provisions were set forth herein.

Persons subject to any tax imposed under the authority granted in this paragraph may reimburse themselves for their serviceman's tax liability hereunder by separately stating the tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that servicemen are authorized to collect under the Service Use Tax Act, in accordance with such bracket schedules as the Department may prescribe.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the warrant to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Metro East Mass Transit District tax fund established under paragraph (g) of this Section.

Nothing in this paragraph shall be construed to authorize the District to impose a tax upon the privilege of engaging in any business which under the Constitution of the United States may not be made the subject of taxation by the State.

(d) If a tax has been imposed under subsection (b), a Metro East Mass Transit District Use Tax shall also be imposed upon the privilege of using, in the district, any item of tangible personal property that is purchased outside the district at retail from a retailer, and that is titled or registered with an agency of this State's government, at a rate of 1/4%, or as authorized under subsection (d-5) of this Section, of the selling price of the tangible personal property within the District, as "selling price" is defined in the Use Tax Act. The tax shall be collected from persons whose Illinois address for titling or registration purposes is given as being in the District. The tax shall be collected by the Department of Revenue for

the Metro East Mass Transit District. The tax must be paid to the State, or an exemption determination must be obtained from the Department of Revenue, before the title or certificate of registration for the property may be issued. The tax or proof of exemption may be transmitted to the Department by way of the State agency with which, or the State officer with whom, the tangible personal property must be titled or registered if the Department and the State agency or State officer determine that this procedure will expedite the processing of applications for title or registration.

The Department shall have full power to administer and enforce this paragraph; to collect all taxes, penalties and interest due hereunder; to dispose of taxes, penalties and interest so collected in the manner hereinafter provided; and to determine all rights to credit memoranda or refunds arising on account of the erroneous payment of tax, penalty or interest hereunder. In the administration of, and compliance with, this paragraph, the Department and persons who are subject to this paragraph shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties, exclusions, exemptions and definitions of terms and employ the same modes of procedure, as are prescribed in Sections 2 (except the definition of "retailer maintaining a place of business in this State"), 3 through 3-80 (except provisions pertaining to the State rate of tax, and except provisions concerning collection or refunding of the tax by retailers), 4, 11, 12, 12a, 14, 15, 19 (except the portions pertaining to claims by retailers and except the last paragraph concerning refunds), 20, 21 and 22 of the Use Tax Act and Section 3-7 of the Uniform Penalty and Interest Act, that are not inconsistent with this paragraph, as fully as if those provisions were set forth herein.

Whenever the Department determines that a refund should be made under this paragraph to a claimant instead of issuing a credit memorandum, the Department shall notify the State Comptroller, who shall cause the order to be drawn for the amount specified, and to the person named, in the notification from the Department. The refund shall be paid by the State Treasurer out of the Metro East Mass Transit District tax fund established under paragraph (g) of this Section.

(d-5) (A) The county board of any county participating in the Metro East Mass Transit District may authorize, by ordinance, a referendum on the question of whether the tax rates for the Metro East Mass Transit District Retailers' Occupation Tax, the Metro East Mass Transit District Service Occupation Tax, and the Metro East Mass Transit District Use Tax for the District should be increased from 0.25% to 0.75%. Upon adopting the ordinance, the county board shall certify the proposition to the proper election officials who shall submit the proposition to the voters of the District at the next election, in accordance with the general election law.

The proposition shall be in substantially the following form:

Shall the tax rates for the Metro East Mass Transit District Retailers' Occupation Tax, the Metro East Mass Transit District Service Occupation Tax, and the Metro East Mass Transit District Use Tax be increased from 0.25% to 0.75%?

(B) Two thousand five hundred electors of any Metro East Mass Transit District may petition the Chief Judge of the Circuit Court, or any judge of that Circuit designated by the Chief Judge, in which that District is located to cause to be submitted to a vote of the electors the question whether the tax rates for the Metro East Mass Transit District Retailers' Occupation Tax, the Metro East Mass Transit District Service Occupation Tax, and the Metro East Mass Transit District Use Tax for the District should be increased from 0.25% to 0.75%.

Upon submission of such petition the court shall set a date not less than 10 nor more than 30 days thereafter for a hearing on the sufficiency thereof. Notice of the filing of such petition and of such date shall be given in writing to the District and the County Clerk at least 7 days before the date of such hearing.

If such petition is found sufficient, the court shall enter an order to submit that proposition at the next election, in accordance with general election law.

The form of the petition shall be in substantially the following form: To the Circuit Court of the County of (name of county):

We, the undersigned electors of the (name of transit district), respectfully petition your honor to submit to a vote of the electors of (name of transit district) the following proposition:

Shall the tax rates for the Metro East Mass Transit District Retailers' Occupation Tax, the Metro East Mass Transit District Service Occupation Tax, and the Metro East Mass Transit District Use Tax be increased from 0.25% to 0.75%?

Name	Address, with Street and Number.	
.....
.....

(C) The votes shall be recorded as "YES" or "NO". If a majority of all votes cast on the proposition are for the increase in the tax rates, the Metro East Mass Transit District shall begin imposing the increased rates in the District, and the Department of Revenue shall begin collecting the increased amounts, as provided under this Section. An ordinance imposing or discontinuing a tax hereunder or effecting a change in the rate thereof shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following the adoption and filing, or on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing.

(D) If the voters have approved a referendum under this subsection, before November 1, 1994, to increase the tax rate under this subsection, the Metro East Mass Transit District Board of Trustees may adopt by a majority vote an ordinance at any time before January 1, 1995 that excludes from the rate increase tangible personal property that is titled or registered with an agency of this State's government. The ordinance excluding titled or registered tangible personal property from the rate increase must be filed with the Department at least 15 days before its effective date. At any time after adopting an ordinance excluding from the rate increase tangible personal property that is titled or registered with an agency of this State's government, the Metro East Mass Transit District Board of Trustees may adopt an ordinance applying the rate increase to that tangible personal property. The ordinance shall be adopted, and a certified copy of that ordinance shall be filed with the Department, on or before October 1, whereupon the Department shall proceed to administer and enforce the rate increase against tangible personal property titled or registered with an agency of this State's government as of the following January 1. After December 31, 1995, any reimposed rate increase in effect under this subsection shall no longer apply to tangible personal property titled or registered with an agency of this State's government. Beginning January 1, 1996, the Board of Trustees of any Metro East Mass Transit District may never reimpose a previously excluded tax rate increase on tangible personal property titled or registered with an agency of this State's government. After July 1, 2003, if the voters have approved a referendum under this subsection to increase the tax rate under this subsection, the Metro East Mass Transit District Board of Trustees may adopt by a majority vote an ordinance that excludes from the rate increase tangible personal property that is titled or registered with an agency of this State's government. The ordinance shall be adopted, and a certified copy of that ordinance shall be filed with the Department, on or before October 1, whereupon the Department shall proceed to administer and enforce the rate increase against tangible personal property titled or registered with an agency of this State's government as of the following January 1, or on or before April 1, whereupon the Department shall proceed to administer and enforce the rate against tangible personal property titled or registered with an agency of this State's government as of the following July 1. The Board of Trustees of any Metro East Mass Transit District may never reimpose a previously excluded tax rate increase on tangible personal property titled or registered with an agency of this State's government.

(d-6) If the Board of Trustees of any Metro East Mass Transit District has imposed a rate increase under subsection (d-5) and filed an ordinance with the Department of Revenue excluding titled property from the higher rate, then that Board may, by ordinance adopted with the concurrence of two-thirds of the then trustees, impose throughout the District a fee. The fee on the excluded property shall not exceed \$20 per retail transaction or an amount equal to the amount of tax excluded, whichever is less, on tangible personal property that is titled or registered with an agency of this State's government. Beginning July 1, 2004, the fee shall apply only to titled property that is subject to either the Metro East Mass Transit District Retailers' Occupation Tax or the Metro East Mass Transit District Service Occupation Tax.

(d-7) Until June 30, 2004, if a fee has been imposed under subsection (d-6), a fee shall also be imposed upon the privilege of using, in the district, any item of tangible personal property that is titled or registered with any agency of this State's government, in an amount equal to the amount of the fee imposed under subsection (d-6).

(d-7.1) Beginning July 1, 2004, any fee imposed by the Board of Trustees of any Metro East Mass Transit District under subsection (d-6) and all civil penalties that may be assessed as an incident of the fees shall be collected and enforced by the State Department of Revenue. Reference to "taxes" in this Section shall be construed to apply to the administration, payment, and remittance of all fees under this Section. For purposes of any fee imposed under subsection (d-6), 4% of the fee, penalty, and interest received by the Department in the first 12 months that the fee is collected and enforced by the Department and 2% of the fee, penalty, and interest following the first 12 months shall be deposited into the Tax Compliance and Administration Fund and shall be used by the Department, subject to

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appropriation, to cover the costs of the Department. No retailers' discount shall apply to any fee imposed under subsection (d-6).

(d-8) No item of titled property shall be subject to both the higher rate approved by referendum, as authorized under subsection (d-5), and any fee imposed under subsection (d-6) or (d-7).

~~(d-9) (Blank). If fees have been imposed under subsections (d-6) and (d-7), the Board shall forward a copy of the ordinance adopting such fees, which shall include all zip codes in whole or in part within the boundaries of the district, to the Secretary of State within thirty days. By the 25th of each month, the Secretary of State shall subsequently provide the Illinois Department of Revenue with a list of identifiable retail transactions subject to the .25% rate occurring within the zip codes which are in whole or in part within the boundaries of the district and a list of title applications for addresses within the boundaries of the district for the previous month.~~

~~(d-10) (Blank). In the event that a retailer fails to pay applicable fees within 30 days of the date of the transaction, a penalty shall be assessed at the rate of 25% of the amount of fees. Interest on both late fees and penalties shall be assessed at the rate of 1% per month. All fees, penalties, and attorney fees shall constitute a lien on the personal and real property of the retailer.~~

(e) A certificate of registration issued by the State Department of Revenue to a retailer under the Retailers' Occupation Tax Act or under the Service Occupation Tax Act shall permit the registrant to engage in a business that is taxed under the tax imposed under paragraphs (b), (c) or (d) of this Section and no additional registration shall be required under the tax. A certificate issued under the Use Tax Act or the Service Use Tax Act shall be applicable with regard to any tax imposed under paragraph (c) of this Section.

~~(f) (Blank). The Board may impose a replacement vehicle tax of \$50 on any passenger car, as defined in Section 1-157 of the Illinois Vehicle Code, purchased within the district area by or on behalf of an insurance company to replace a passenger car of an insured person in settlement of a total loss claim. The tax imposed may not become effective before the first day of the month following the passage of the ordinance imposing the tax and receipt of a certified copy of the ordinance by the Department of Revenue. The Department of Revenue shall collect the tax for the district in accordance with Sections 3-2002 and 3-2003 of the Illinois Vehicle Code.~~

~~The Department shall immediately pay over to the State Treasurer, ex officio, as trustee, all taxes collected hereunder. On or before the 25th day of each calendar month, the Department shall prepare and certify to the Comptroller the disbursement of stated sums of money to named districts, the districts to be those from which retailers have paid taxes or penalties hereunder to the Department during the second preceding calendar month. The amount to be paid to each district shall be the amount collected hereunder during the second preceding calendar month by the Department, less any amount determined by the Department to be necessary for the payment of refunds. Within 10 days after receipt by the Comptroller of the disbursement certification to the districts, provided for in this Section to be given to the Comptroller by the Department, the Comptroller shall cause the orders to be drawn for the respective amounts in accordance with the directions contained in the certification.~~

(g) Any ordinance imposing or discontinuing any tax under this Section shall be adopted and a certified copy thereof filed with the Department on or before June 1, whereupon the Department of Revenue shall proceed to administer and enforce this Section on behalf of the Metro East Mass Transit District as of September 1 next following such adoption and filing. Beginning January 1, 1992, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of July, whereupon the Department shall proceed to administer and enforce this Section as of the first day of October next following such adoption and filing. Beginning January 1, 1993, except as provided in subsection (d-5) of this Section, an ordinance or resolution imposing or discontinuing the tax hereunder shall be adopted and a certified copy thereof filed with the Department on or before the first day of October, whereupon the Department shall proceed to administer and enforce this Section as of the first day of January next following such adoption and filing, or, beginning January 1, 2004, on or before the first day of April, whereupon the Department shall proceed to administer and enforce this Section as of the first day of July next following the adoption and filing.

(h) Except as provided in subsection (d-7.1), the State Department of Revenue shall, upon collecting any taxes as provided in this Section, pay the taxes over to the State Treasurer as trustee for the District. The taxes shall be held in a trust fund outside the State Treasury. On or before the 25th day of each calendar month, the State Department of Revenue shall prepare and certify to the Comptroller of the State of Illinois the amount to be paid to the District, which shall be the then balance in the fund, less any amount determined by the Department to be necessary for the payment of refunds. Within 10 days after receipt by the Comptroller of the certification of the amount to be paid to the District, the

Comptroller shall cause an order to be drawn for payment for the amount in accordance with the direction in the certification. (Source: P.A. 93-590; eff. 1-1-04.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 1946**, with House Amendment No. 1 was referred to the Secretary's Desk.

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendments to a bill of the following title, to-wit:

HOUSE BILL 940

A bill for AN ACT in relation to State procurement.

Which amendments are as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 940

Senate Amendment No. 2 to HOUSE BILL NO. 940

Concurred in by the House, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

A message from the House by

Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the adoption of their amendment to a bill of the following title, to-wit:

HOUSE BILL 763

A bill for AN ACT relating to schools.

Which amendment is as follows:

Senate Amendment No. 1 to HOUSE BILL NO. 763

Concurred in by the House, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

COMMITTEE MEETING ANNOUNCEMENTS

Senator Link, Chairperson of the Committee on Revenue announced that the Revenue Committee will meet today in Room A-1 Stratton Building, at 8:25 o'clock p.m.

Senator Silverstein, Chairperson of the Committee on Executive announced that the Executive Committee will meet today in Room 212 Capitol Building, at 8:30 o'clock p.m.

Senator Peterson asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

At the hour of 7:26 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 9:21 o'clock p.m., the Senate resumed consideration of business.

Senator DeLeo, presiding.

Senator Sieben asked and obtained unanimous consent to recess for the purpose of a Republican caucus.

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At the hour of 9:24 o'clock p.m., the Chair announced that the Senate stand at recess subject to the call of the Chair.

AFTER RECESS

At the hour of 9:35 o'clock p.m., the Senate resumed consideration of business.
Senator Welch, presiding.

MESSAGE FROM THE HOUSE

A message from the House by
Mr. Bolin, Assistant Clerk:

Mr. President -- I am directed to inform the Senate that the House of Representatives has concurred with the Senate in the passage of a bill of the following title, to-wit:

SENATE BILL NO. 82

A bill for AN ACT in relation to voting equipment.

Together with the following amendment which is attached, in the adoption of which I am instructed to ask the concurrence of the Senate, to-wit:

House Amendment No. 1 to SENATE BILL NO. 82

Passed the House, as amended, November 20, 2003.

BRADLEY S. BOLIN, Assistant Clerk of the House

AMENDMENT NO. 1 TO SENATE BILL 82

AMENDMENT NO. 1____. Amend Senate Bill 82 by replacing the title with the following:

"AN ACT concerning elections."; and

by replacing everything after the enacting clause with the following:

"Section 5.

The Election Code is amended by changing Sections 1A-8, 4-8, 5-7, 6-35, 7-9, 9-1.7, 9-1.8, 9-1.9, 9-1.14, 9-10, 13-4, 14-1, 18A-5, 19-4, 20-4, 22-1, 22-7, 22-8, and 22-17 and by adding Sections 4-100, 5-100, 6-100, 7-100, 17-100, and 18-100 as follows:

(10 ILCS 5/1A-8) (from Ch. 46, par. 1A-8)

Sec. 1A-8. The State Board of Elections shall exercise the following powers and perform the following duties in addition to any powers or duties otherwise provided for by law:

(1) Assume all duties and responsibilities of the State Electoral Board and the Secretary of State as heretofore provided in this Act;

(2) Disseminate information to and consult with election authorities concerning the conduct of elections and registration in accordance with the laws of this State and the laws of the United States;

(3) Furnish to each election authority prior to each primary and general election and any other election it deems necessary, a manual of uniform instructions consistent with the provisions of this Act which shall be used by election authorities in the preparation of the official manual of instruction to be used by the judges of election in any such election. In preparing such manual, the State Board shall consult with representatives of the election authorities throughout the State. The State Board may provide separate portions of the uniform instructions applicable to different election jurisdictions which administer elections under different options provided by law. The State Board may by regulation require particular portions of the uniform instructions to be included in any official manual of instructions published by election authorities. Any manual of instructions published by any election authority shall be identical with the manual of uniform instructions issued by the Board, but may be adapted by the election authority to accommodate special or unusual local election problems, provided that all manuals published by election authorities must be consistent with the provisions of this Act in all respects and must receive the approval of the State Board of Elections prior to publication; provided further that if the State Board does not approve or disapprove of a proposed manual within 60 days of its submission, the manual shall be deemed approved.

(4) Prescribe and require the use of such uniform forms, notices, and other supplies not inconsistent with the provisions of this Act as it shall deem advisable which shall be used by election authorities in the conduct of elections and registrations;

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(5) Prepare and certify the form of ballot for any proposed amendment to the Constitution of the State of Illinois, or any referendum to be submitted to the electors throughout the State or, when required to do so by law, to the voters of any area or unit of local government of the State;

(6) Require such statistical reports regarding the conduct of elections and registration from election authorities as may be deemed necessary;

(7) Review and inspect procedures and records relating to conduct of elections and registration as may be deemed necessary, and to report violations of election laws to the appropriate State's Attorney;

(8) Recommend to the General Assembly legislation to improve the administration of elections and registration;

(9) Adopt, amend or rescind rules and regulations in the performance of its duties provided that all such rules and regulations must be consistent with the provisions of this Article 1A or issued pursuant to authority otherwise provided by law;

(10) Determine the validity and sufficiency of petitions filed under Article XIV, Section 3, of the Constitution of the State of Illinois of 1970;

(11) Maintain in its principal office a research library that includes, but is not limited to, abstracts of votes by precinct for general primary elections and general elections, current precinct maps and current precinct poll lists from all election jurisdictions within the State. The research library shall be open to the public during regular business hours. Such abstracts, maps and lists shall be preserved as permanent records and shall be available for examination and copying at a reasonable cost;

(12) Supervise the administration of the registration and election laws throughout the State;

(13) Obtain from the Department of Central Management Services, under Section 405-250 of the Department of Central Management Services Law (20 ILCS 405/405-250), such use of electronic data processing equipment as may be required to perform the duties of the State Board of Elections and to provide election-related information to candidates, public and party officials, interested civic organizations and the general public in a timely and efficient manner; ~~and~~

(14) To take such action as may be necessary or required to give effect to directions of the State central committee of an established political party under Sections 7-8, 7-11 and 7-14.1 or such other provisions as may be applicable pertaining to the selection of delegates and alternate delegates to an established political party's national nominating conventions; and-

(15) Notwithstanding any candidate certification schedule contained in this Code, to take such action as may be necessary or required, including certification, to give effect to the certification by the national committee of an established political party of the candidates for President and Vice President selected at that party's 2004 national nominating convention, provided that those certifications are received by the State Board of Elections by September 15, 2004.

The Board may by regulation delegate any of its duties or functions under this Article, except that final determinations and orders under this Article shall be issued only by the Board.

The requirement for reporting to the General Assembly shall be satisfied by filing copies of the report with the Speaker, the Minority Leader and the Clerk of the House of Representatives and the President, the Minority Leader and the Secretary of the Senate and the Legislative Research Unit, as required by Section 3.1 of "An Act to revise the law in relation to the General Assembly", approved February 25, 1874, as amended, and filing such additional copies with the State Government Report Distribution Center for the General Assembly as is required under paragraph (t) of Section 7 of the State Library Act. (Source: P.A. 91-239, eff. 1-1-00.)

(10 ILCS 5/4-8) (from Ch. 46, par. 4-8)

Sec. 4-8. The county clerk shall provide a sufficient number of blank forms for the registration of electors, which shall be known as registration record cards and which shall consist of loose leaf sheets or cards, of suitable size to contain in plain writing and figures the data hereinafter required thereon or shall consist of computer cards of suitable nature to contain the data required thereon. The registration record cards, which shall include an affidavit of registration as hereinafter provided, shall be executed in duplicate.

The registration record card shall not state that a person who registers for the first time other than in person must vote for the first time in person; registration record cards that so state may be used if that statement is blacked out or otherwise obliterated.

The registration record card shall contain the following and such other information as the county clerk may think it proper to require for the identification of the applicant for registration:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue, or other location of the dwelling, including the apartment, unit or room number, if any, and in the case of a mobile home the lot number, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant. Where the location cannot be determined by street and number, then the section, congressional township and range number may be used, or such other description as may be necessary, including post-office mailing address. In the case of a homeless individual, the individual's voting residence that is his or her mailing address shall be included on his or her registration record card.

Term of residence in the State of Illinois and precinct. This information shall be furnished by the applicant stating the place or places where he resided and the dates during which he resided in such place or places during the year next preceding the date of the next ensuing election.

Nativity. The state or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place, and date of naturalization.

Date of application for registration, i.e., the day, month and year when applicant presented himself for registration.

Age. Date of birth, by month, day and year.

Physical disability of the applicant, if any, at the time of registration, which would require assistance in voting.

The county and state in which the applicant was last registered.

Signature of voter. The applicant, after the registration and in the presence of a deputy registrar or other officer of registration shall be required to sign his or her name in ink to the affidavit on both the original and duplicate registration record cards.

Signature of deputy registrar or officer of registration.

In case applicant is unable to sign his name, he may affix his mark to the affidavit. In such case the officer empowered to give the registration oath shall write a detailed description of the applicant in the space provided on the back or at the bottom of the card or sheet; and shall ask the following questions and record the answers thereto:

Father's first name.

Mother's first name.

From what address did the applicant last register?

Reason for inability to sign name.

Each applicant for registration shall make an affidavit in substantially the following form:

AFFIDAVIT OF REGISTRATION

STATE OF ILLINOIS
COUNTY OF

I hereby swear (or affirm) that I am a citizen of the United States; that on the date of the next election I shall have resided in the State of Illinois and in the election precinct in which I reside 30 days and that I intend that this location shall be my residence; that I am fully qualified to vote, and that the above statements are true.

.....

(His or her signature or mark)

Subscribed and sworn to before me on (insert date).

.....

Signature of registration officer.

(To be signed in presence of registrant.)

Space shall be provided upon the face of each registration record card for the notation of the voting record of the person registered thereon.

Each registration record card shall be numbered according to precincts, and may be serially or otherwise marked for identification in such manner as the county clerk may determine.

The registration cards shall be deemed public records and shall be open to inspection during regular business hours, except during the 27 days immediately preceding any election. On written request of any candidate or objector or any person intending to object to a petition, the election authority shall extend its hours for inspection of registration cards and other records of the election authority during the period beginning with the filing of petitions under Sections 7-10, 8-8, 10-6 or 28-3 and continuing through the termination of electoral board hearings on any objections to petitions containing signatures of registered voters in the jurisdiction of the election authority. The extension shall be for a period of hours sufficient to allow adequate opportunity for examination of the records but the election authority is not required to extend its hours beyond the period beginning at its normal opening for business and ending at midnight. If the business hours are so extended, the election authority shall post a public notice of such extended

hours. Registration record cards may also be inspected, upon approval of the officer in charge of the cards, during the 27 days immediately preceding any election. Registration record cards shall also be open to inspection by certified judges and poll watchers and challengers at the polling place on election day, but only to the extent necessary to determine the question of the right of a person to vote or to serve as a judge of election. At no time shall poll watchers or challengers be allowed to physically handle the registration record cards.

Updated copies of computer tapes or computer discs or other electronic data processing information containing voter registration information shall be furnished by the county clerk within 10 days after December 15 and May 15 each year and within 10 days after each registration period is closed to the State Board of Elections in a form prescribed by the Board. For the purposes of this Section, a registration period is closed 27 days before the date of any regular or special election. Registration information shall include, but not be limited to, the following information: name, sex, residence, telephone number, if any, age, party affiliation, if applicable, precinct, ward, township, county, and representative, legislative and congressional districts. In the event of noncompliance, the State Board of Elections is directed to obtain compliance forthwith with this nondiscretionary duty of the election authority by instituting legal proceedings in the circuit court of the county in which the election authority maintains the registration information. The costs of furnishing updated copies of tapes or discs shall be paid at a rate of \$.00034 per name of registered voters in the election jurisdiction, but not less than \$50 per tape or disc and shall be paid from appropriations made to the State Board of Elections for reimbursement to the election authority for such purpose. The Board shall furnish copies of such tapes, discs, other electronic data or compilations thereof to state political committees registered pursuant to the Illinois Campaign Finance Act or the Federal Election Campaign Act at their request and at a reasonable cost. Copies of the tapes, discs or other electronic data shall be furnished by the county clerk to local political committees at their request and at a reasonable cost. To protect the privacy and confidentiality of voter registration information, the disclosure of electronic voter registration records to any person or entity is specifically prohibited (i) other than as provided in Sections 4-33, 5-43, and 6-79, (ii) other than to a State or local political committee, and (iii) other than to a governmental entity for a governmental purpose. Nothing in this Section shall be construed to prevent all duly constituted electoral boards or their designees from reviewing electronic voter registration records in the course of their proceedings is specifically prohibited. Reasonable cost of the tapes, discs, et cetera for this purpose would be the cost of duplication plus 15% for administration. The individual representing a political committee requesting copies of such tapes shall make a sworn affidavit that the information shall be used only for bona fide political purposes, including by or for candidates for office or incumbent office holders. Such tapes, discs or other electronic data shall not be used under any circumstances by any political committee or individuals for purposes of commercial solicitation or other business purposes. If such tapes contain information on county residents related to the operations of county government in addition to registration information, that information shall not be used under any circumstances for commercial solicitation or other business purposes. The prohibition in this Section against using the computer tapes or computer discs or other electronic data processing information containing voter registration information for purposes of commercial solicitation or other business purposes shall be prospective only from the effective date of this amended Act of 1979. Any person who violates this provision shall be guilty of a Class 4 felony.

The State Board of Elections shall promulgate, by October 1, 1987, such regulations as may be necessary to ensure uniformity throughout the State in electronic data processing of voter registration information. The regulations shall include, but need not be limited to, specifications for uniform medium, communications protocol and file structure to be employed by the election authorities of this State in the electronic data processing of voter registration information. Each election authority utilizing electronic data processing of voter registration information shall comply with such regulations on and after May 15, 1988.

If the applicant for registration was last registered in another county within this State, he shall also sign a certificate authorizing cancellation of the former registration. The certificate shall be in substantially the following form:

To the County Clerk of.... County, Illinois. (or)

To the Election Commission of the City of, Illinois.

This is to certify that I am registered in your (county) (city) and that my residence was

Having moved out of your (county) (city), I hereby authorize you to cancel said registration in your office.

Dated at, Illinois, on (insert date).

.....

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(Signature of Voter)

Attest:, County Clerk,

County, Illinois.

The cancellation certificate shall be mailed immediately by the County Clerk to the County Clerk (or election commission as the case may be) where the applicant was formerly registered. Receipt of such certificate shall be full authority for cancellation of any previous registration. (Source: P.A. 92-465, eff. 1-1-02; 92-816, eff. 8-21-02; 93-574, eff. 8-21-03.)

(10 ILCS 5/4-100 new)

Sec. 4-100. First time voting. A person who votes for the first time after his or her registration shall not be required to vote in person, regardless of whether the voter registered in person, by mail, or by other authorized means.

(10 ILCS 5/5-7) (from Ch. 46, par. 5-7)

Sec. 5-7. The county clerk shall provide a sufficient number of blank forms for the registration of electors which shall be known as registration record cards and which shall consist of loose leaf sheets or cards, of suitable size to contain in plain writing and figures the data hereinafter required thereon or shall consist of computer cards of suitable nature to contain the data required thereon. The registration record cards, which shall include an affidavit of registration as hereinafter provided, shall be executed in duplicate.

The registration record card shall not state that a person who registers for the first time other than in person must vote for the first time in person; registration record cards that so state may be used if that statement is blacked out or otherwise obliterated.

The registration record card shall contain the following and such other information as the county clerk may think it proper to require for the identification of the applicant for registration:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue, or other location of the dwelling, including the apartment, unit or room number, if any, and in the case of a mobile home the lot number, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant, including post-office mailing address. In the case of a homeless individual, the individual's voting residence that is his or her mailing address shall be included on his or her registration record card.

Term of residence in the State of Illinois and the precinct. Which questions may be answered by the applicant stating, in excess of 30 days in the State and in excess of 30 days in the precinct.

Nativity. The State or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place and date of naturalization.

Date of application for registration, i.e., the day, month and year when applicant presented himself for registration.

Age. Date of birth, by month, day and year.

Physical disability of the applicant, if any, at the time of registration, which would require assistance in voting.

The county and state in which the applicant was last registered.

Signature of voter. The applicant, after the registration and in the presence of a deputy registrar or other officer of registration shall be required to sign his or her name in ink to the affidavit on the original and duplicate registration record card.

Signature of Deputy Registrar.

In case applicant is unable to sign his name, he may affix his mark to the affidavit. In such case the officer empowered to give the registration oath shall write a detailed description of the applicant in the space provided at the bottom of the card or sheet; and shall ask the following questions and record the answers thereto:

Father's first name

Mother's first name

From what address did you last register?

Reason for inability to sign name.

Each applicant for registration shall make an affidavit in substantially the following form:

AFFIDAVIT OF REGISTRATION

State of Illinois)

)ss

County of _____)

I hereby swear (or affirm) that I am a citizen of the United States; that on the date of the next election I shall have resided in the State of Illinois and in the election precinct in which I reside 30 days; that I am fully qualified to vote. That I intend that this location shall be my residence and that the above statements are true.

.....
(His or her signature or mark)

Subscribed and sworn to before me on (insert date).

.....
Signature of Registration Officer.
(To be signed in presence of Registrant.)

Space shall be provided upon the face of each registration record card for the notation of the voting record of the person registered thereon.

Each registration record card shall be numbered according to towns and precincts, wards, cities and villages, as the case may be, and may be serially or otherwise marked for identification in such manner as the county clerk may determine.

The registration cards shall be deemed public records and shall be open to inspection during regular business hours, except during the 27 days immediately preceding any election. On written request of any candidate or objector or any person intending to object to a petition, the election authority shall extend its hours for inspection of registration cards and other records of the election authority during the period beginning with the filing of petitions under Sections 7-10, 8-8, 10-6 or 28-3 and continuing through the termination of electoral board hearings on any objections to petitions containing signatures of registered voters in the jurisdiction of the election authority. The extension shall be for a period of hours sufficient to allow adequate opportunity for examination of the records but the election authority is not required to extend its hours beyond the period beginning at its normal opening for business and ending at midnight. If the business hours are so extended, the election authority shall post a public notice of such extended hours. Registration record cards may also be inspected, upon approval of the officer in charge of the cards, during the 27 days immediately preceding any election. Registration record cards shall also be open to inspection by certified judges and poll watchers and challengers at the polling place on election day, but only to the extent necessary to determine the question of the right of a person to vote or to serve as a judge of election. At no time shall poll watchers or challengers be allowed to physically handle the registration record cards.

Updated copies of computer tapes or computer discs or other electronic data processing information containing voter registration information shall be furnished by the county clerk within 10 days after December 15 and May 15 each year and within 10 days after each registration period is closed to the State Board of Elections in a form prescribed by the Board. For the purposes of this Section, a registration period is closed 27 days before the date of any regular or special election. Registration information shall include, but not be limited to, the following information: name, sex, residence, telephone number, if any, age, party affiliation, if applicable, precinct, ward, township, county, and representative, legislative and congressional districts. In the event of noncompliance, the State Board of Elections is directed to obtain compliance forthwith with this nondiscretionary duty of the election authority by instituting legal proceedings in the circuit court of the county in which the election authority maintains the registration information. The costs of furnishing updated copies of tapes or discs shall be paid at a rate of \$.00034 per name of registered voters in the election jurisdiction, but not less than \$50 per tape or disc and shall be paid from appropriations made to the State Board of Elections for reimbursement to the election authority for such purpose. The Board shall furnish copies of such tapes, discs, other electronic data or compilations thereof to state political committees registered pursuant to the Illinois Campaign Finance Act or the Federal Election Campaign Act at their request and at a reasonable cost. To protect the privacy and confidentiality of voter registration information, the disclosure of electronic voter registration records to any person or entity is specifically prohibited (i) other than as provided in Sections 4-33, 5-43, and 6-79, (ii) other than to a State or local political committee, and (iii) other than to a governmental entity for a governmental purpose. Nothing in this Section shall be construed to prevent all duly constituted electoral boards or their designees from reviewing electronic voter registration records in the course of their proceedings is specifically prohibited. Copies of the tapes, discs or other electronic data shall be furnished by the county clerk to local political committees at their request and at a reasonable cost. Reasonable cost of the tapes, discs, et cetera for this purpose would be the cost of duplication plus 15% for administration. The individual representing a political committee requesting copies of such tapes shall make a sworn affidavit that the information shall be used only for bona fide political purposes, including by or for candidates for office

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or incumbent office holders. Such tapes, discs or other electronic data shall not be used under any circumstances by any political committee or individuals for purposes of commercial solicitation or other business purposes. If such tapes contain information on county residents related to the operations of county government in addition to registration information, that information shall not be used under any circumstances for commercial solicitation or other business purposes. The prohibition in this Section against using the computer tapes or computer discs or other electronic data processing information containing voter registration information for purposes of commercial solicitation or other business purposes shall be prospective only from the effective date of this amended Act of 1979. Any person who violates this provision shall be guilty of a Class 4 felony.

The State Board of Elections shall promulgate, by October 1, 1987, such regulations as may be necessary to ensure uniformity throughout the State in electronic data processing of voter registration information. The regulations shall include, but need not be limited to, specifications for uniform medium, communications protocol and file structure to be employed by the election authorities of this State in the electronic data processing of voter registration information. Each election authority utilizing electronic data processing of voter registration information shall comply with such regulations on and after May 15, 1988.

If the applicant for registration was last registered in another county within this State, he shall also sign a certificate authorizing cancellation of the former registration. The certificate shall be in substantially the following form:

To the County Clerk of County, Illinois. To the Election Commission of the City of, Illinois.

This is to certify that I am registered in your (county) (city) and that my residence was

Having moved out of your (county) (city), I hereby authorize you to cancel said registration in your office.

Dated at Illinois, on (insert date).

.....
(Signature of Voter)

Attest, County Clerk, County, Illinois.

The cancellation certificate shall be mailed immediately by the county clerk to the county clerk (or election commission as the case may be) where the applicant was formerly registered. Receipt of such certificate shall be full authority for cancellation of any previous registration. (Source: P.A. 92-465, eff. 1-1-02; 92-816, eff. 8-21-02; 93-574, eff. 8-21-03.)

(10 ILCS 5/5-100 new)

Sec. 5-100. First time voting. A person who votes for the first time after his or her registration shall not be required to vote in person, regardless of whether the voter registered in person, by mail, or by other authorized means.

(10 ILCS 5/6-35) (from Ch. 46, par. 6-35)

Sec. 6-35. The Boards of Election Commissioners shall provide a sufficient number of blank forms for the registration of electors which shall be known as registration record cards and which shall consist of loose leaf sheets or cards, of suitable size to contain in plain writing and figures the data hereinafter required thereon or shall consist of computer cards of suitable nature to contain the data required thereon. The registration record cards, which shall include an affidavit of registration as hereinafter provided, shall be executed in duplicate. The duplicate of which may be a carbon copy of the original or a copy of the original made by the use of other method or material used for making simultaneous true copies or duplications.

The registration record card shall not state that a person who registers for the first time other than in person must vote for the first time in person; registration record cards that so state may be used if that statement is blacked out or otherwise obliterated.

The registration record card shall contain the following and such other information as the Board of Election Commissioners may think it proper to require for the identification of the applicant for registration:

Name. The name of the applicant, giving surname and first or Christian name in full, and the middle name or the initial for such middle name, if any.

Sex.

Residence. The name and number of the street, avenue, or other location of the dwelling, including the apartment, unit or room number, if any, and in the case of a mobile home the lot number, and such additional clear and definite description as may be necessary to determine the exact location of the dwelling of the applicant, including post-office mailing address. In the case of a homeless individual, the individual's voting residence that is his or her mailing address shall be included on his or her registration record card.

Term of residence in the State of Illinois and the precinct.

Nativity. The state or country in which the applicant was born.

Citizenship. Whether the applicant is native born or naturalized. If naturalized, the court, place, and date of naturalization.

Date of application for registration, i.e., the day, month and year when the applicant presented himself for registration.

Age. Date of birth, by month, day and year.

Physical disability of the applicant, if any, at the time of registration, which would require assistance in voting.

The county and state in which the applicant was last registered.

Signature of voter. The applicant, after registration and in the presence of a deputy registrar or other officer of registration shall be required to sign his or her name in ink to the affidavit on both the original and the duplicate registration record card.

Signature of deputy registrar.

In case applicant is unable to sign his name, he may affix his mark to the affidavit. In such case the registration officer shall write a detailed description of the applicant in the space provided at the bottom of the card or sheet; and shall ask the following questions and record the answers thereto:

Father's first name

Mother's first name

From what address did you last register?

Reason for inability to sign name

Each applicant for registration shall make an affidavit in substantially the following form:

AFFIDAVIT OF REGISTRATION

State of Illinois)

)ss

County of)

I hereby swear (or affirm) that I am a citizen of the United States, that on the day of the next election I shall have resided in the State of Illinois and in the election precinct 30 days and that I intend that this location is my residence; that I am fully qualified to vote, and that the above statements are true.

.....
(His or her signature or mark)

Subscribed and sworn to before me on (insert date).

.....
Signature of registration officer

(to be signed in presence of registrant).

Space shall be provided upon the face of each registration record card for the notation of the voting record of the person registered thereon.

Each registration record card shall be numbered according to wards or precincts, as the case may be, and may be serially or otherwise marked for identification in such manner as the Board of Election Commissioners may determine.

The registration cards shall be deemed public records and shall be open to inspection during regular business hours, except during the 27 days immediately preceding any election. On written request of any candidate or objector or any person intending to object to a petition, the election authority shall extend its hours for inspection of registration cards and other records of the election authority during the period beginning with the filing of petitions under Sections 7-10, 8-8, 10-6 or 28-3 and continuing through the termination of electoral board hearings on any objections to petitions containing signatures of registered voters in the jurisdiction of the election authority. The extension shall be for a period of hours sufficient to allow adequate opportunity for examination of the records but the election authority is not required to extend its hours beyond the period beginning at its normal opening for business and ending at midnight. If the business hours are so extended, the election authority shall post a public notice of such extended hours. Registration record cards may also be inspected, upon approval of the officer in charge of the cards, during the 27 days immediately preceding any election. Registration record cards shall also be open to inspection by certified judges and poll watchers and challengers at the polling place on election day, but only to the extent necessary to determine the question of the right of a person to vote or to serve as a judge of election. At no time shall poll watchers or challengers be allowed to physically handle the registration record cards.

Updated copies of computer tapes or computer discs or other electronic data processing information containing voter registration information shall be furnished by the Board of Election Commissioners within 10 days after December 15 and May 15 each year and within 10 days after each registration

period is closed to the State Board of Elections in a form prescribed by the State Board. For the purposes of this Section, a registration period is closed 27 days before the date of any regular or special election. Registration information shall include, but not be limited to, the following information: name, sex, residence, telephone number, if any, age, party affiliation, if applicable, precinct, ward, township, county, and representative, legislative and congressional districts. In the event of noncompliance, the State Board of Elections is directed to obtain compliance forthwith with this nondiscretionary duty of the election authority by instituting legal proceedings in the circuit court of the county in which the election authority maintains the registration information. The costs of furnishing updated copies of tapes or discs shall be paid at a rate of \$.00034 per name of registered voters in the election jurisdiction, but not less than \$50 per tape or disc and shall be paid from appropriations made to the State Board of Elections for reimbursement to the election authority for such purpose. The State Board shall furnish copies of such tapes, discs, other electronic data or compilations thereof to state political committees registered pursuant to the Illinois Campaign Finance Act or the Federal Election Campaign Act at their request and at a reasonable cost. To protect the privacy and confidentiality of voter registration information, the disclosure of electronic voter registration records to any person or entity is specifically prohibited (i) other than as provided in Sections 4-33, 5-43, and 6-79, (ii) other than to a State or local political committee, and (iii) other than to a governmental entity for a governmental purpose. Nothing in this Section shall be construed to prevent all duly constituted electoral boards or their designees from reviewing electronic voter registration records in the course of their proceedings is specifically prohibited. Copies of the tapes, discs or other electronic data shall be furnished by the Board of Election Commissioners to local political committees at their request and at a reasonable cost. Reasonable cost of the tapes, discs, et cetera for this purpose would be the cost of duplication plus 15% for administration. The individual representing a political committee requesting copies of such tapes shall make a sworn affidavit that the information shall be used only for bona fide political purposes, including by or for candidates for office or incumbent office holders. Such tapes, discs or other electronic data shall not be used under any circumstances by any political committee or individuals for purposes of commercial solicitation or other business purposes. If such tapes contain information on county residents related to the operations of county government in addition to registration information, that information shall not be used under any circumstances for commercial solicitation or other business purposes. The prohibition in this Section against using the computer tapes or computer discs or other electronic data processing information containing voter registration information for purposes of commercial solicitation or other business purposes shall be prospective only from the effective date of this amended Act of 1979. Any person who violates this provision shall be guilty of a Class 4 felony.

The State Board of Elections shall promulgate, by October 1, 1987, such regulations as may be necessary to ensure uniformity throughout the State in electronic data processing of voter registration information. The regulations shall include, but need not be limited to, specifications for uniform medium, communications protocol and file structure to be employed by the election authorities of this State in the electronic data processing of voter registration information. Each election authority utilizing electronic data processing of voter registration information shall comply with such regulations on and after May 15, 1988.

If the applicant for registration was last registered in another county within this State, he shall also sign a certificate authorizing cancellation of the former registration. The certificate shall be in substantially the following form:

To the County Clerk of County, Illinois.

To the Election Commission of the City of, Illinois.

This is to certify that I am registered in your (county) (city) and that my residence was Having moved out of your (county), (city), I hereby authorize you to cancel that registration in your office.

Dated at, Illinois, on (insert date).

.....
(Signature of Voter)

Attest, Clerk, Election Commission of the City of, Illinois.

The cancellation certificate shall be mailed immediately by the clerk of the Election Commission to the county clerk, (or Election Commission as the case may be) where the applicant was formerly registered. Receipt of such certificate shall be full authority for cancellation of any previous registration. (Source: P.A. 92-465, eff. 1-1-02; 92-816, eff. 8-21-02; 93-574, eff. 8-21-03.)

(10 ILCS 5/6-100 new)

Sec. 6-100. First time voting. A person who votes for the first time after his or her registration shall not be required to vote in person, regardless of whether the voter registered in person, by mail, or by other authorized means.

(10 ILCS 5/7-9) (from Ch. 46, par. 7-9)

Sec. 7-9. County central committee; county and State conventions. (a) On the 28th day ~~second Monday~~ next succeeding the primary at which committeemen are elected, the county central committee of each political party shall meet at the county seat of the proper county and proceed to organize by electing from its own number a chairman and either from its own number, or otherwise, such other officers as such committee may deem necessary or expedient. Such meeting of the county central committee shall be known as the county convention.

The chairman of each county committee shall within 10 days after the organization, forward to the State Board of Elections, the names and post office addresses of the officers, precinct committeemen and representative committeemen elected by his political party.

The county convention of each political party shall choose delegates to the State convention of its party; but in any county having within its limits any city having a population of 200,000, or over the delegates from such city shall be chosen by wards, the ward committeemen from the respective wards choosing the number of delegates to which such ward is entitled on the basis prescribed in paragraph (e) of this Section such delegates to be members of the delegation to the State convention from such county. In all counties containing a population of 2,000,000 or more outside of cities having a population of 200,000 or more, the delegates from each of the townships or parts of townships as the case may be shall be chosen by townships or parts of townships as the case may be, the township committeemen from the respective townships or parts of townships as the case may be choosing the number of delegates to which such townships or parts of townships as the case may be are entitled, on the basis prescribed in paragraph (e) of this Section such delegates to be members of the delegation to the State convention from such county.

Each member of the State Central Committee of a political party which elects its members by Alternative B under paragraph (a) of Section 7-8 shall be a delegate to the State Convention, ex officio.

Each member of the State Central Committee of a political party which elects its members by Alternative B under paragraph (a) of Section 7-8 may appoint 2 delegates to the State Convention who must be residents of the member's Congressional District.

(b) State conventions shall be held within 180 days after the general primary in the year 2000 and every 4 years thereafter. In the year 1998, and every 4 years thereafter, the chairman of a State central committee may issue a call for a State convention within 180 days after the general primary.

The State convention of each political party has power to make nominations of candidates of its political party for the electors of President and Vice President of the United States, and to adopt any party platform, and, to the extent determined by the State central committee as provided in Section 7-14, to choose and select delegates and alternate delegates at large to national nominating conventions. The State Central Committee may adopt rules to provide for and govern the procedures of the State convention.

(c) The chairman and secretary of each State convention shall, within 2 days thereafter, transmit to the State Board of Elections of this State a certificate setting forth the names and addresses of all persons nominated by such State convention for electors of President and Vice President of the United States, and of any persons selected by the State convention for delegates and alternate delegates at large to national nominating conventions; and the names of such candidates so chosen by such State convention for electors of President and Vice President of the United States, shall be caused by the State Board of Elections to be printed upon the official ballot at the general election, in the manner required by law, and shall be certified to the various county clerks of the proper counties in the manner as provided in Section 7-60 of this Article 7 for the certifying of the names of persons nominated by any party for State offices. If and as long as this Act prescribes that the names of such electors be not printed on the ballot, then the names of such electors shall be certified in such manner as may be prescribed by the parts of this Act applicable thereto.

(d) Each convention may perform all other functions inherent to such political organization and not inconsistent with this Article.

(e) At least 33 days before the date of a State convention, the chairman of the State central committee of each political party shall file in the principal office of the State Board of Elections a call for the State convention. Such call shall state, among other things, the time and place (designating the building or hall) for holding the State convention. Such call shall be signed by the chairman and attested by the secretary of the committee. In such convention each county shall be entitled to one delegate for each 500 ballots voted by the primary electors of the party in such county at the primary to be held next after the issuance of such call; and if in such county, less than 500 ballots are so voted or if the number of ballots so voted is not exactly a multiple of 500, there shall be one delegate for such group which is less than 500, or for such group representing the number of votes over the multiple of 500, which delegate shall

have 1/500 of one vote for each primary vote so represented by him. The call for such convention shall set forth this paragraph (e) of Section 7-9 in full and shall direct that the number of delegates to be chosen be calculated in compliance herewith and that such number of delegates be chosen.

(f) All precinct, township and ward committeemen when elected as provided in this Section shall serve as though elected at large irrespective of any changes that may be made in precinct, township or ward boundaries and the voting strength of each committeeman shall remain as provided in this Section for the entire time for which he is elected.

(g) The officers elected at any convention provided for in this Section shall serve until their successors are elected as provided in this Act.

(h) A special meeting of any central committee may be called by the chairman, or by not less than 25% of the members of such committee, by giving 5 days notice to members of such committee in writing designating the time and place at which such special meeting is to be held and the business which it is proposed to present at such special meeting.

(i) Except as otherwise provided in this Act, whenever a vacancy exists in the office of precinct committeeman because no one was elected to that office or because the precinct committeeman ceases to reside in the precinct or for any other reason, the chairman of the county central committee of the appropriate political party may fill the vacancy in such office by appointment of a qualified resident of the county and the appointed precinct committeeman shall serve as though elected; however, no such appointment may be made between the general primary election and the 14th day after the general primary election.

(j) If the number of Congressional Districts in the State of Illinois is reduced as a result of reapportionment of Congressional Districts following a federal decennial census, the State Central Committeemen and Committeewomen of a political party which elects its State Central Committee by either Alternative A or by Alternative B under paragraph (a) of Section 7-8 who were previously elected shall continue to serve as if no reapportionment had occurred until the expiration of their terms. (Source: P.A. 89-5, eff. 1-1-96; 90-627, eff. 7-10-98.)

(10 ILCS 5/7-100 new)

Sec. 7-100. Definition of a vote.

(a) Notwithstanding any law to the contrary, for the purpose of this Article, a person casts a valid vote on a punch card ballot when:

(1) A chad on the card has at least one corner detached from the card;

(2) The fibers of paper on at least one edge of the chad are broken in a way that permits unimpeded light to be seen through the card; or

(3) An indentation on the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote based on the totality of the circumstances, including but not limited to any pattern or frequency of indentations on other ballot positions from the same ballot card.

(b) Write-in votes shall be counted in a manner consistent with the existing provisions of this Code.

(c) For purposes of this Section, a "chad" is that portion of a ballot card that a voter punches or perforates with a stylus or other designated marking device to manifest his or her vote for a particular ballot position on a ballot card as defined in subsection (a). Chads shall be removed from ballot cards prior to their processing and tabulation in election jurisdictions that utilize a ballot card as a means of recording votes at an election. Election jurisdictions that utilize a mechanical means or device for chad removal as a component of their tabulation shall use that means or device for chad removal.

(10 ILCS 5/9-1.7) (from Ch. 46, par. 9-1.7)

Sec. 9-1.7. "Local political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or other organization or group of persons which:

(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the county clerk, or on behalf of or in opposition to a candidate or candidates for election to the office of ward or township committeeman in counties of 3,000,000 or more population;

(b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing no more than one county; or

(c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act

to file statements of economic interest with the County Clerk or a candidate or candidates for the office of ward or township committeeman in counties of 3,000,000 or more population; or-

(d) makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b).

(Source: P.A. 90-737, eff. 1-1-99; 91-357, eff. 7-29-99.)

(10 ILCS 5/9-1.8) (from Ch. 46, par. 9-1.8)

Sec. 9-1.8. "State political committee" means the candidate himself or any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which--

(a) accepts contributions or grants or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interests with the Secretary of State,

(b) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 in support of or in opposition to any question of public policy to be submitted to the electors of an area encompassing more than one county, ~~or~~

(c) accepts contributions or makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 and has as its primary purpose the furtherance of governmental, political or social values, is organized on a not-for-profit basis, and which publicly endorses or publicly opposes a candidate or candidates for public office who are required by the Illinois Governmental Ethics Act to file statements of economic interest with the Secretary of State; or-

(d) makes expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) or any question of public policy described in paragraph (b). (Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-1.9) (from Ch. 46, par. 9-1.9)

Sec. 9-1.9. "Political committee" includes State central and county central committees of any political party, and also includes local political committees and state political committees, but does not include any candidate who does not accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000, nor does it include, with the exception of State central and county central committees of any political party, any individual, trust, partnership, committee, association, corporation, or any other organization or group of persons which does not (i) accept contributions or make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 on behalf of or in opposition to a candidate or candidates or to any question of public policy or (ii) make expenditures during any 12-month period in an aggregate amount exceeding \$3,000 for electioneering communications relating to any candidate or candidates described in paragraph (a) of Section 9-1.7 or 9-1.8 or any question of public policy described in paragraph (b) of Section 9-1.7 or 9-1.8, and such candidates and persons shall not be required to comply with any filing provisions in this Article. (Source: P.A. 90-737, eff. 1-1-99.)

(10 ILCS 5/9-1.14)

Sec. 9-1.14. Electioneering communication defined. (a) "Electioneering communication" means, for the purposes of this Article, any form of communication, in whatever medium, including, but not limited to, newspaper, radio, television, or Internet and newspaper communications, that refers to a clearly identified candidate, candidates, or political party and is made within (i) 60 days before a general election or a consolidated election for the office sought by the candidate or (ii) 30 days before a general primary election for the office sought by the candidate.

(b) "Electioneering communication" does not include:

(1) A communication other than advertisements appearing in a news story, commentary, or editorial distributed through the facilities of any legitimate news organization, unless the facilities are owned or controlled by any political party, political committee, or candidate.

(2) A communication made solely to promote a candidate debate or forum that is made by or on behalf of the person sponsoring the debate or forum.

(3) A communication made as part of a non-partisan activity designed to encourage individuals to vote or to register to vote.

(4) A communication by an organization operating and remaining in good standing under Section 501(c)(3) of the Internal Revenue Code of 1986.

(Source: P.A. 93-574, eff. 8-21-03.)

(10 ILCS 5/9-10) (from Ch. 46, par. 9-10)

Sec. 9-10. Financial reports. (a) The treasurer of every state political committee and the treasurer of every local political committee shall file with the Board, and the treasurer of every local political

committee shall file with the county clerk, reports of campaign contributions, and semi-annual reports of campaign contributions and expenditures on forms to be prescribed or approved by the Board. The treasurer of every political committee that acts as both a state political committee and a local political committee shall file a copy of each report with the State Board of Elections and the county clerk. Entities subject to Section 9-7.5 shall file reports required by that Section at times provided in this Section and are subject to the penalties provided in this Section.

(b) Reports of campaign contributions shall be filed no later than the 15th day next preceding each election including a primary election in connection with which the political committee has accepted or is accepting contributions or has made or is making expenditures. Such reports shall be complete as of the 30th day next preceding each election including a primary election. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93rd General Assembly, the Board may impose fines for violations of this subsection. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally; and

(2) past violations of this Section and Section 9-3 by the committee.

The Board ~~shall~~ assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer. However, a continuing political committee that neither accepts contributions nor makes expenditures on behalf of or in opposition to any candidate or public question on the ballot at an election shall not be required to file the reports heretofore prescribed but may file in lieu thereof a Statement of Nonparticipation in the Election with the Board or the Board and the county clerk.

(b-5) Notwithstanding the provisions of subsection (b) and Section 1.25 of the Statute on Statutes, any contribution of more than \$500 or more received in the interim between the last date of the period covered by the last report filed under subsection (b) prior to the election and the date of the election shall be filed with and must actually be received by the State Board of Elections reported within 2 business days after ~~its~~ receipt of such contribution. The State Board shall allow filings of reports of contributions of more than \$500 under this subsection (b-5) by political committees that are not required to file electronically to be made by facsimile transmission. For the purpose of this subsection, a contribution is considered received on the date the public official, candidate, or political committee (or equivalent person in the case of a reporting entity other than a political committee) actually receives it or, in the case of goods or services, 2 business days after the date the public official, candidate, committee, or other reporting entity receives the certification required under subsection (b) of Section 9-6. Failure to report each contribution is a separate violation of this subsection. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93rd General Assembly, the Board may ~~shall~~ impose fines for violations of this subsection not to exceed 100% of the total amount of the contributions that were untimely reported, but in no case when a fine is imposed shall it be less than 10% of the total amount of the contributions that were untimely reported. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally;

(2) the number of days the contribution was reported late; and

(3) past violations of Sections 9-3 and 9-10 of this Article by the committee, as follows:

(1) if the political committee's or other reporting entity's total receipts, total expenditures, and balance remaining at the end of the last reporting period were each \$5,000 or less, then \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and subsequent violations.

(2) if the political committee's or other reporting entity's total receipts, total expenditures, and balance remaining at the end of the last reporting period were each more than \$5,000, then \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and subsequent violations.

(c) In addition to such reports the treasurer of every political committee shall file semi-annual reports of campaign contributions and expenditures no later than July 31st, covering the period from January 1st through June 30th immediately preceding, and no later than January 31st, covering the period from July

1st through December 31st of the preceding calendar year. Reports of contributions and expenditures must be filed to cover the prescribed time periods even though no contributions or expenditures may have been received or made during the period. In the final disposition of any matter by the Board on or after the effective date of this amendatory Act of the 93rd General Assembly, the Board may impose fines for violations of this subsection. When considering the amount of the fine to be imposed, the Board shall consider, but is not limited to, the following factors:

(1) whether in the Board's opinion the violation was committed inadvertently, negligently, knowingly, or intentionally; and

(2) past violations of this Section and Section 9-3 by the committee.

The Board may shall assess a civil penalty not to exceed \$5,000 for a violation of this subsection, except that for State officers and candidates and political committees formed for statewide office, the civil penalty may not exceed \$10,000. The fine, however, shall not exceed \$500 for a first filing violation for filing less than 10 days after the deadline. There shall be no fine if the report is mailed and postmarked at least 72 hours prior to the filing deadline. For the purpose of this subsection, "statewide office" and "State officer" means the Governor, Lieutenant Governor, Attorney General, Secretary of State, Comptroller, and Treasurer.

(c-5) A political committee that acts as either (i) a State and local political committee or (ii) a local political committee and that files reports electronically under Section 9-28 is not required to file copies of the reports with the appropriate county clerk if the county clerk has a system that permits access to, and duplication of, reports that are filed with the State Board of Elections. A State and local political committee or a local political committee shall file with the county clerk a copy of its statement of organization pursuant to Section 9-3.

(d) A copy of each report or statement filed under this Article shall be preserved by the person filing it for a period of two years from the date of filing.

(e) The Board may at any time, upon notice to all parties involved, dismiss any matters, or any part thereof, brought by the Board that are currently pending before the Board. (Source: P.A. 93-574, eff. 8-21-03.)

(10 ILCS 5/13-4) (from Ch. 46, par. 13-4)

Sec. 13-4. Qualifications. (a) All persons elected or chosen judge of election must: (1) be citizens of the United States and entitled to vote at the next election, except as provided in subsection (b) or (c); (2) be of good repute and character; (3) be able to speak, read and write the English language; (4) be skilled in the four fundamental rules of arithmetic; (5) be of good understanding and capable; (6) not be candidates for any office at the election and not be elected committeemen; and (7) reside in the precinct in which they are selected to act, except that in each precinct, not more than one judge of each party may be appointed from outside such precinct. Any judge selected to serve in any precinct in which he is not entitled to vote must reside within and be entitled to vote elsewhere within the county which encompasses the precinct in which such judge is appointed, except as provided in subsection (b) or (c). Such judge must meet the other qualifications of this Section.

(b) An election authority may establish a program to permit a person who is not entitled to vote to be appointed as an election judge if, as of the date of the election at which the person serves as a judge, he or she:

(1) is a U.S. citizen;

(2) is a senior in good standing enrolled in a public or private secondary school;

(3) has a cumulative grade point average equivalent to at least 3.0 on a 4.0 scale;

(4) has the written approval of the principal of the secondary school he or she attends at the time of appointment;

(5) has the written approval of his or her parent or legal guardian;

(6) has satisfactorily completed the training course for judges of election described in Sections 13-2.1 and 13-2.2; and

(7) meets all other qualifications for appointment and service as an election judge.

No more than one election judge qualifying under this subsection may serve per political party per precinct. Prior to appointment, a judge qualifying under this subsection must certify in writing to the election authority the political party the judge chooses to affiliate with.

Students appointed as election judges under this subsection shall not be counted as absent from school on the day they serve as judges.

(c) An election authority may establish a program to permit a person who is not entitled to vote in that precinct or county to be appointed as an election judge if, as of the date of the election at which the person serves as a judge, he or she:

(1) is a U.S. citizen;

- (2) is currently enrolled in a public or private Illinois university or college;
- (3) has a cumulative grade point average equivalent to at least 3.0 on a 4.0 scale;
- (4) has satisfactorily completed the training course for judges of election described in Sections 13-2.1 and 13-2.2; and
- (5) meets all other qualifications for appointment and service as an election judge.

No more than one election judge qualifying under this subsection may serve per political party per precinct. Prior to appointment, a judge qualifying under this subsection must certify in writing to the election authority the political party the judge chooses to affiliate with.

Students appointed as election judges under this subsection shall not be counted as absent from school on the day they serve as judges. (Source: P.A. 91-352, eff. 1-1-00.)

(10 ILCS 5/14-1) (from Ch. 46, par. 14-1)

Sec. 14-1. (a) The board of election commissioners established or existing under Article 6 shall, at the time and in the manner provided in Section 14-3.1, select and choose 5 persons, men or women, as judges of election for each precinct in such city, village or incorporated town.

Where neither voting machines nor electronic, mechanical or electric voting systems are used, the board of election commissioners may, for any precinct with respect to which the board considers such action necessary or desirable in view of the number of voters, and shall for general elections for any precinct containing more than 600 registered voters, appoint in addition to the 5 judges of election a team of 5 tally judges. In such precincts the judges of election shall preside over the election during the hours the polls are open, and the tally judges, with the assistance of the holdover judges designated pursuant to Section 14-5.2, shall count the vote after the closing of the polls. The tally judges shall possess the same qualifications and shall be appointed in the same manner and with the same division between political parties as is provided for judges of election. The foregoing provisions relating to the appointment of tally judges are inapplicable in counties with a population of 1,000,000 or more.

(b) To qualify as judges the persons must:

- (1) be citizens of the United States;
- (2) be of good repute and character;
- (3) be able to speak, read and write the English language;
- (4) be skilled in the 4 fundamental rules of arithmetic;
- (5) be of good understanding and capable;
- (6) not be candidates for any office at the election and not be elected committeemen;
- (7) reside and be entitled to vote in the precinct in which they are selected to serve, except that in each precinct not more than one judge of each party may be appointed from outside such precinct.

Any judge so appointed to serve in any precinct in which he is not entitled to vote must be entitled to vote elsewhere within the county which encompasses the precinct in which such judge is appointed and such judge must otherwise meet the qualifications of this Section, except as provided in subsection (c) or (c-5).

(c) An election authority may establish a program to permit a person who is not entitled to vote to be appointed as an election judge if, as of the date of the election at which the person serves as a judge, he or she:

- (1) is a U.S. citizen;
- (2) is a senior in good standing enrolled in a public or private secondary school;
- (3) has a cumulative grade point average equivalent to at least 3.0 on a 4.0 scale;
- (4) has the written approval of the principal of the secondary school he or she attends at the time of appointment;
- (5) has the written approval of his or her parent or legal guardian;
- (6) has satisfactorily completed the training course for judges of election described in Sections 13-2.1, 13-2.2, and 14-4.1; and
- (7) meets all other qualifications for appointment and service as an election judge.

No more than one election judge qualifying under this subsection may serve per political party per precinct. Prior to appointment, a judge qualifying under this subsection must certify in writing to the election authority the political party the judge chooses to affiliate with.

Students appointed as election judges under this subsection shall not be counted as absent from school on the day they serve as judges.

(c-5) An election authority may establish a program to permit a person who is not entitled to vote in that precinct or county to be appointed as an election judge if, as of the date of the election at which the person serves as a judge, he or she:

- (1) is a U.S. citizen;
- (2) is currently enrolled in a public or private Illinois university or college;

(3) has a cumulative grade point average equivalent to at least 3.0 on a 4.0 scale;

(4) has satisfactorily completed the training course for judges of election described in Sections 13-2.1, 13-2.2, and 14-4.1; and

(5) meets all other qualifications for appointment and service as an election judge.

No more than one election judge qualifying under this subsection may serve per political party per precinct. Prior to appointment, a judge qualifying under this subsection must certify in writing to the election authority the political party the judge chooses to affiliate with.

Students appointed as election judges under this subsection shall not be counted as absent from school on the day they serve as judges.

(d) The board of election commissioners may select 2 additional judges of election, one from each of the major political parties, for each 200 voters in excess of 600 in any precinct having more than 600 voters as authorized by Section 11--3. These additional judges must meet the qualifications prescribed in this Section. (Source: P.A. 91-352, eff. 1-1-00.)

(10 ILCS 5/17-100 new)

Sec. 17-100. Definition of a vote.

(a) Notwithstanding any law to the contrary, for the purpose of this Article, a person casts a valid vote on a punch card ballot when:

(1) A chad on the card has at least one corner detached from the card;

(2) The fibers of paper on at least one edge of the chad are broken in a way that permits unimpeded light to be seen through the card; or

(3) An indentation on the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote based on the totality of the circumstances, including but not limited to any pattern or frequency of indentations on other ballot positions from the same ballot card.

(b) Write-in votes shall be counted in a manner consistent with the existing provisions of this Code.

(c) For purposes of this Section, a "chad" is that portion of a ballot card that a voter punches or perforates with a stylus or other designated marking device to manifest his or her vote for a particular ballot position on a ballot card as defined in subsection (a). Chads shall be removed from ballot cards prior to their processing and tabulation in election jurisdictions that utilize a ballot card as a means of recording votes at an election. Election jurisdictions that utilize a mechanical means or device for chad removal as a component of their tabulation shall use that means or device for chad removal.

(10 ILCS 5/18-100 new)

Sec. 18-100. Definition of a vote.

(a) Notwithstanding any law to the contrary, for the purpose of this Article, a person casts a valid vote on a punch card ballot when:

(1) A chad on the card has at least one corner detached from the card;

(2) The fibers of paper on at least one edge of the chad are broken in a way that permits unimpeded light to be seen through the card; or

(3) An indentation on the chad from the stylus or other object is present and indicates a clearly ascertainable intent of the voter to vote based on the totality of the circumstances, including but not limited to any pattern or frequency of indentations on other ballot positions from the same ballot card.

(b) Write-in votes shall be counted in a manner consistent with the existing provisions of this Code.

(c) For purposes of this Section, a "chad" is that portion of a ballot card that a voter punches or perforates with a stylus or other designated marking device to manifest his or her vote for a particular ballot position on a ballot card as defined in subsection (a). Chads shall be removed from ballot cards prior to their processing and tabulation in election jurisdictions that utilize a ballot card as a means of recording votes at an election. Election jurisdictions that utilize a mechanical means or device for chad removal as a component of their tabulation shall use that means or device for chad removal.

(10 ILCS 5/18A-5)

Sec. 18A-5. Provisional voting; general provisions. (a) A person who claims to be a registered voter is entitled to cast a provisional ballot under the following circumstances:

(1) The person's name does not appear on the official list of eligible voters, whether a list of active or inactive voters, for the precinct in which the person seeks to vote;

(2) The person's voting status has been challenged by an election judge, a pollwatcher, or any legal voter and that challenge has been sustained by a majority of the election judges; or

(3) A federal or State court order extends the time for closing the polls beyond the time period established by State law and the person votes during the extended time period; or

(4) The voter registered to vote by mail and is required by law to present identification when voting either in person or by absentee ballot, but fails to do so.

(b) The procedure for obtaining and casting a provisional ballot at the polling place shall be as

follows:

(1) An election judge at the polling place shall notify a person who is entitled to cast a provisional ballot pursuant to subsection (a) that he or she may cast a provisional ballot in that election. An election judge must accept any information provided by a person who casts a provisional ballot that the person believes supports his or her claim that he or she is a duly registered voter and qualified to vote in the election.

(2) The person shall execute a written form provided by the election judge that shall state or contain all of the following:

(i) an affidavit stating the following:

State of Illinois, County of _____, Township _____, Precinct _____, Ward _____, I, _____, do solemnly swear (or affirm) that: I am a citizen of the United States; I am 18 years of age or older; I have resided in this State and in this precinct for 30 days preceding this election; I have not voted in this election; I am a duly registered voter in every respect; and I am eligible to vote in this election. Signature _____ Printed Name of Voter _____ Printed Residence Address of Voter _____ City _____ State _____ Zip Code _____ Telephone Number _____ Date of Birth _____ and Driver's License Number _____ Last 4 digits of Social Security Number _____ or State Identification Card Number.

(ii) Written instruction stating the following:

In order to expedite the verification of your voter registration status, the (insert name of county clerk of board of election commissioners here) requests that you include your phone number and both the last four digits of your social security number and your driver's license number or State Identification Card Number issued to you by the Secretary of State. At minimum, you are required to include either (A) your driver's license number or State Identification Card Number issued to you by the Secretary of State or (B) the last 4 digits of your social security number.

(iii) A box for the election judge to check one of the 4 reasons why the person was given a provisional ballot under subsection (a) of Section 18A-5.

(iv) An area for the election judge to affix his or her signature and to set forth any facts that support or oppose the allegation that the person is not qualified to vote in the precinct in which the person is seeking to vote.

The written affidavit form described in this subsection (b)(2) must be printed on a multi-part form prescribed by the county clerk or board of election commissioners, as the case may be.

(3) After the person executes the portion of the written affidavit described in subsection (b)(2)(i) of this Section, the election judge shall complete the portion of the written affidavit described in subsection (b)(2)(iii) and (b)(2)(iv).

(4) The election judge shall give a copy of the completed written affidavit to the person. The election judge shall place the original written affidavit in a self-adhesive clear plastic packing list envelope that must be attached to a separate envelope marked as a "provisional ballot envelope". The election judge shall also place any information provided by the person who casts a provisional ballot in the clear plastic packing list envelope. Each county clerk or board of election commissioners, as the case may be, must design, obtain or procure self-adhesive clear plastic packing list envelopes and provisional ballot envelopes that are suitable for implementing this subsection (b)(4) of this Section.

(5) The election judge shall provide the person with a provisional ballot, written instructions for casting a provisional ballot, and the provisional ballot envelope with the clear plastic packing list envelope affixed to it, which contains the person's original written affidavit and, if any, information provided by the provisional voter to support his or her claim that he or she is a duly registered voter. An election judge must also give the person written information that states that any person who casts a provisional ballot shall be able to ascertain, pursuant to guidelines established by the State Board of Elections, whether the provisional vote was counted in the official canvass of votes for that election and, if the provisional vote was not counted, the reason that the vote was not counted.

(6) After the person has completed marking his or her provisional ballot, he or she shall place the marked ballot inside of the provisional ballot envelope, close and seal the envelope, and return the envelope to an election judge, who shall then deposit the sealed provisional ballot envelope into a securable container separately identified and utilized for containing sealed provisional ballot envelopes. Ballots that are provisional because they are cast after 7:00 p.m. by court order shall be kept separate from other provisional ballots. Upon the closing of the polls, the securable container shall be sealed with filament tape provided for that purpose, which shall be wrapped around the box lengthwise and crosswise, at least twice each way, and each of the election judges shall sign the seal.

(c) Instead of the affidavit form described in subsection (b), the county clerk or board of election

commissioners, as the case may be, may design and use a multi-part affidavit form that is imprinted upon or attached to the provisional ballot envelope described in subsection (b). If a county clerk or board of election commissioners elects to design and use its own multi-part affidavit form, then the county clerk or board of election commissioners shall establish a mechanism for accepting any information the provisional voter has supplied to the election judge to support his or her claim that he or she is a duly registered voter. In all other respects, a county clerk or board of election commissioners shall establish procedures consistent with subsection (b).

(d) The county clerk or board of election commissioners, as the case may be, shall use the completed affidavit form described in subsection (b) to update the person's voter registration information in the State voter registration database and voter registration database of the county clerk or board of election commissioners, as the case may be. If a person is later determined not to be a registered voter based on Section 18A-15 of this Code, then the affidavit shall be processed by the county clerk or board of election commissioners, as the case may be, as a voter registration application. (Source: P.A. 93-574, eff. 8-21-03.)

(10 ILCS 5/19-4) (from Ch. 46, par. 19-4)

Sec. 19-4. Mailing or delivery of ballots - Time.) Immediately upon the receipt of such application either by mail, not more than 40 days nor less than 5 days prior to such election, or by personal delivery not more than 40 days nor less than one day prior to such election, at the office of such election authority, it shall be the duty of such election authority to examine the records to ascertain whether or not such applicant is lawfully entitled to vote as requested, and if found so to be, to post within one business day thereafter the name, street address, ward and precinct number or township and district number, as the case may be, of such applicant given on a list, the pages of which are to be numbered consecutively to be kept by such election authority for such purpose in a conspicuous, open and public place accessible to the public at the entrance of the office of such election authority, and in such a manner that such list may be viewed without necessity of requesting permission therefor. Within one business day after posting the name and other information of an applicant for an absentee ballot, the election authority shall transmit that name and other posted information to the State Board of Elections, which shall maintain those names and other information in an electronic format on its website, arranged by county and accessible only by registered State and local political committees, and Within 2 business days after posting a name and other information on the list within its office, the election authority shall thereafter to mail, postage prepaid, or deliver in person in such office an official ballot or ballots if more than one are to be voted at said election. Mail delivery of Temporarily Absent Student ballot applications pursuant to Section 19-12.3 shall be by nonforwardable mail. However, for the consolidated election, absentee ballots for certain precincts may be delivered to applicants not less than 25 days before the election if so much time is required to have prepared and printed the ballots containing the names of persons nominated for offices at the consolidated primary. The election authority shall enclose with each absentee ballot or application written instructions on how voting assistance shall be provided pursuant to Section 17-14 and a document, written and approved by the State Board of Elections, enumerating the circumstances under which a person is authorized to vote by absentee ballot pursuant to this Article; such document shall also include a statement informing the applicant that if he or she falsifies or is solicited by another to falsify his or her eligibility to cast an absentee ballot, such applicant or other is subject to penalties pursuant to Section 29-10 and Section 29-20 of the Election Code. Each election authority shall maintain a list of the name, street address, ward and precinct, or township and district number, as the case may be, of all applicants who have returned absentee ballots to such authority, and the name of such absent voter shall be added to such list within one business day from receipt of such ballot. If the absentee ballot envelope indicates that the voter was assisted in casting the ballot, the name of the person so assisting shall be included on the list. The list, the pages of which are to be numbered consecutively, shall be kept by each election authority in a conspicuous, open, and public place accessible to the public at the entrance of the office of the election authority and in a manner that the list may be viewed without necessity of requesting permission for viewing.

Each election authority shall maintain a list for each election of the voters to whom it has issued absentee ballots. The list shall be maintained for each precinct within the jurisdiction of the election authority. Prior to the opening of the polls on election day, the election authority shall deliver to the judges of election in each precinct the list of registered voters in that precinct to whom absentee ballots have been issued by mail.

Each election authority shall maintain a list for each election of voters to whom it has issued temporarily absent student ballots. The list shall be maintained for each election jurisdiction within which such voters temporarily abide. Immediately after the close of the period during which application may be made by mail for absentee ballots, each election authority shall mail to each other election

authority within the State a certified list of all such voters temporarily abiding within the jurisdiction of the other election authority.

In the event that the return address of an application for ballot by a physically incapacitated elector is that of a facility licensed or certified under the Nursing Home Care Act, within the jurisdiction of the election authority, and the applicant is a registered voter in the precinct in which such facility is located, the ballots shall be prepared and transmitted to a responsible judge of election no later than 9 a.m. on the Saturday, Sunday or Monday immediately preceding the election as designated by the election authority under Section 19-12.2. Such judge shall deliver in person on the designated day the ballot to the applicant on the premises of the facility from which application was made. The election authority shall by mail notify the applicant in such facility that the ballot will be delivered by a judge of election on the designated day.

All applications for absentee ballots shall be available at the office of the election authority for public inspection upon request from the time of receipt thereof by the election authority until 30 days after the election, except during the time such applications are kept in the office of the election authority pursuant to Section 19-7, and except during the time such applications are in the possession of the judges of election. (Source: P.A. 89-653, eff. 8-14-96; 90-101, eff. 7-11-97.)

(10 ILCS 5/20-4) (from Ch. 46, par. 20-4)

Sec. 20-4. Immediately upon the receipt of the official postcard or an application as provided in Section 20-3 within the times heretofore prescribed, the election authority shall ascertain whether or not such applicant is legally entitled to vote as requested. If the election authority ascertains that the applicant is lawfully entitled to vote, it shall enter the name, street address, ward and precinct number of such applicant on a list to be posted in his or its office in a place accessible to the public. Within one business day after posting the name and other information of an applicant for a ballot, the election authority shall transmit that name and posted information to the State Board of Elections, which shall maintain the names and other information in an electronic format on its website, arranged by county and accessible only by registered State and local political committees. As soon as the official ballot is prepared the election authority shall immediately deliver the same to the applicant in person or by mail, in the manner prescribed in Section 20-5.

If any such election authority receives a second or additional application which it believes is from the same person, he or it shall submit it to the chief judge of the circuit court or any judge of that court designated by the chief judge. If the chief judge or his designate determines that the application submitted to him is a second or additional one, he shall so notify the election authority who shall disregard the second or additional application.

The election authority shall maintain a list for each election of the voters to whom it has issued absentee ballots. The list shall be maintained for each precinct within the jurisdiction of the election authority. Prior to the opening of the polls on election day, the election authority shall deliver to the judges of election in each precinct the list of registered voters in that precinct to whom absentee ballots have been issued. (Source: P.A. 81-0155; 81-0953; 81-1509.)

(10 ILCS 5/22-1) (from Ch. 46, par. 22-1)

Sec. 22-1. Abstracts of votes. Within 21 calendar 7 days after the close of the election at which candidates for offices hereinafter named in this Section are voted upon, the county clerks of the respective counties, with the assistance of the chairmen of the county central committees of the Republican and Democratic parties of the county, shall open the returns and make abstracts of the votes on a separate sheet for each of the following:

- A. For Governor and Lieutenant Governor;
- B. For State officers;
- C. For presidential electors;
- D. For United States Senators and Representatives to Congress;
- E. For judges of the Supreme Court;
- F. For judges of the Appellate Court;
- G. For judges of the circuit court;
- H. For Senators and Representatives to the General Assembly;
- I. For State's Attorneys elected from 2 or more counties;
- J. For amendments to the Constitution, and for other propositions submitted to the electors of the entire State;
- K. For county officers and for propositions submitted to the electors of the county only;
- L. For Regional Superintendent of Schools;
- M. For trustees of Sanitary Districts; and
- N. For Trustee of a Regional Board of School Trustees.

Multiple originals of each of the sheets shall be prepared and one of each shall be turned over to the chairman of the county central committee of each of the then existing established political parties, as defined in Section 10-2, or his duly authorized representative immediately after the completion of the entries on the sheets and before the totals have been compiled.

The foregoing abstracts shall be preserved by the county clerk in his office.

Whenever any county chairman is also county clerk or whenever any county chairman is unable to serve as a member of such canvassing board the vice-chairman or secretary of his county central committee, in that order, shall serve in his place as member of such canvassing board; provided, that if none of these persons is able to serve, the county chairman may appoint a member of his county central committee to serve as a member of such canvassing board.

The powers and duties of the county canvassing board are limited to those specified in this Section. In no event shall such canvassing board open any package in which the ballots have been wrapped or any envelope containing "defective" or "objected to" ballots, or in any manner undertake to examine the ballots used in the election, except as provided in Section 22-9.1 or when directed by a court in an election contest. Nor shall such canvassing board call in the precinct judges of election or any other persons to open or recount the ballots. (Source: P.A. 89-5, eff. 1-1-96.)

(10 ILCS 5/22-7) (from Ch. 46, par. 22-7)

Sec. 22-7. Canvass of votes; declaration and proclamation of result. The State Board of Elections, shall proceed within 22 calendar ~~20~~ days after the election, and sooner if all the returns are received, to canvass the votes given for United States Senators and Representatives to Congress, State executive officers, judges of the Supreme Court, judges of the Appellate Court, judges of the Circuit Court, Senators, Representatives to the General Assembly, State's Attorneys and Regional Superintendents of Schools elected from 2 or more counties, respectively, and the persons having the highest number of votes for the respective offices shall be declared duly elected, but if it appears that more than the number of persons to be elected have the highest and an equal number of votes for the same office, the electoral board shall decide by lot which of such persons shall be elected; and to each person duly elected, the Governor shall give a certificate of election or commission, as the case may require, and shall cause proclamation to be made of the result of the canvass, and they shall at the same time and in the same manner, canvass the vote cast upon amendments to the Constitution, and upon other propositions submitted to the electors of the entire State; and the Governor shall cause to be made such proclamation of the result of the canvass as the statutes elsewhere provide. The State Board of Elections shall transmit to the State Comptroller a list of the persons elected to the various offices. The State Board of Elections shall also transmit to the Supreme Court the names of persons elected to judgeships in adversary elections and the names of judges who fail to win retention in office. (Source: P.A. 89-5, eff. 1-1-96.)

(10 ILCS 5/22-8) (from Ch. 46, par. 22-8)

Sec. 22-8. In municipalities operating under Article 6 of this Act, within 21 calendar 7 days after the close of such election, a judge of the circuit court, with the assistance of the city attorney and the board of election commissioners, who are hereby declared a canvassing board for such city, shall open all returns left respectively, with the election commissioners, the county clerk, and city comptroller, and shall make abstracts or statements of the votes in the following manner, as the case may require, viz: All votes for Governor and Lieutenant Governor on one sheet; all votes for other State officers on another sheet; all votes for presidential electors on another sheet; all votes for United States Senators and Representatives to Congress on another sheet; all votes for judges of the Supreme Court on another sheet; all votes for judges of the Appellate Court on another sheet; all votes for Judges of the Circuit Court on another sheet; all votes for Senators and Representatives to the General Assembly on another sheet; all votes for State's Attorneys where elected from 2 or more counties on another sheet; all votes for County Officers on another sheet; all votes for City Officers on another sheet; all votes for Town Officers on another sheet; and all votes for any other office on a separate and appropriate sheet; all votes for any proposition, which may be submitted to a vote of the people, on another sheet, and all votes against any proposition, submitted to a vote of the people, on another sheet.

Multiple originals of each of the sheets shall be prepared and one of each shall be turned over to the chairman of the county central committee of each of the then existing established political parties, as defined in Section 10-2, or his duly authorized representative immediately after the completion of the entries on the sheets and before the totals have been compiled. (Source: P. A. 77-2626.)

(10 ILCS 5/22-17) (from Ch. 46, par. 22-17)

Sec. 22-17. (a) Except as provided in subsection (b), the canvass of votes cast at the nonpartisan and consolidated elections shall be conducted by the following canvassing boards within 21 calendar 7 days after the close of such elections:

1. For city offices, by the mayor, the city attorney and the city clerk.

2. For village and incorporated town offices, by the president of the board of trustees, one member of the board of trustees, and the village or incorporated town clerk.

3. For township offices, by the township supervisor, the eligible town trustee elected in the township who has the longest term of continuous service as town trustee, and the township clerk.

4. For road district offices, by the highway commissioner and the road district clerk.

5. For school district or community college district offices, by the school or community college district board.

6. For special district elected offices, by the board of the special district.

7. For multi-county educational service region offices, by the regional board of school trustees.

8. For township trustee of schools or land commissioner, by the township trustees of schools or land commissioners.

9. For park district offices, by the president of the park board, one member of the board of park commissioners and the secretary of the park district.

10. For multi-township assessment districts, by the chairman, clerk, and assessor of the multi-township assessment district.

(b) The city canvassing board provided in Section 22-8 shall canvass the votes cast at the nonpartisan and consolidated elections for offices of any political subdivision entirely within the jurisdiction of a municipal board of election commissioners.

(c) The canvass of votes cast upon any public questions submitted to the voters of any political subdivision, or any precinct or combination of precincts within a political subdivision, at any regular election or at any emergency referendum election, including votes cast by voters outside of the political subdivision where the question is for annexation thereto, shall be canvassed by the same board provided for in this Section for the canvass of votes of the officers of such political subdivision. However, referenda conducted throughout a county and referenda of sanitary districts whose officers are elected at general elections shall be canvassed by the county canvassing board. The votes cast on a public question for the formation of a political subdivision shall be canvassed by the circuit court that ordered the question submitted, or by such officers of the court as may be appointed for such purpose, except where in the formation or reorganization of a school district or districts the regional superintendent of schools is designated by law as the canvassing official.

(d) The canvass of votes for offices of political subdivisions cast at special elections to fill vacancies held on the day of any regular election shall be conducted by the canvassing board which is responsible for canvassing the votes at the regularly scheduled election for such office. (Source: P.A. 87-738; 87-1052.)

Section 99. Effective date. This Act takes effect upon becoming law."

Under the rules, the foregoing **Senate Bill No. 82**, with House Amendment No. 1 was referred to the Secretary's Desk.

JOINT ACTION MOTION FILED

The following Joint Action Motion to the Senate Bill listed below has been filed with the Secretary and referred to the Committee on Rules:

Motion to Concur in House Amendment 1 to Senate Bill 82

REPORT FROM STANDING COMMITTEES

Senator Silverstein, Chairperson of the Committee on Executive, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be approved for consideration:

Motion to Concur in House Amendment 1 to Senate Bill 20

Motion to Concur in House Amendments 2, 3 and 4 to Senate Bill 702

Motion to Concur in House Amendment 2 to Senate Bill 857

Under the rules, the foregoing Motions are eligible for consideration by the Senate.

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Senator Silverstein, Chairperson of the Committee on Executive to which was referred the following Senate floor amendments reported that the Committee recommends that they be adopted:

Senate Amendment No. 3 to House Bill 701
 Senate Amendment No. 1 to House Bill 960
 Senate Amendment No. 1 to House Bill 2654
 Senate Amendment No. 1 to House Bill 2655
 Senate Amendment No. 1 to House Bill 2656
 Senate Amendment No. 1 to House Bill 2657

Under the rules, the foregoing floor amendments are eligible for consideration on second reading.

Senator Link, Chairperson of the Committee on Revenue, to which was referred the Motions to concur with House Amendments to the following Senate Bills, reported that the Committee recommends that they be adopted:

Motion to Concur in House Amendments 2 and 4 to Senate Bill 1883

Under the rules, the foregoing Motion is eligible for consideration by the Senate.

LEGISLATIVE MEASURE FILED

The following Floor amendment to the House Bill listed below has been filed with the Secretary, and referred to the Committee on Rules:

Senate Floor Amendment No. 1 to House Bill 2659

CONSIDERATION OF HOUSE AMENDMENTS TO SENATE BILLS ON SECRETARY'S DESK

On motion of Senator Garrett, **Senate Bill No. 702**, with House Amendments numbered 2, 3 and 4 on the Secretary's Desk, was taken up for immediate consideration.

Senator Rauschenberger requested a Ruling from the Chair as to the number of votes required on the concurrence motion in view of the fact that the committee meetings were closed sessions.

The Chair ruled pursuant to Article 4, Section 5(c) of the Illinois Constitution that a two-thirds vote is needed for passage.

Senator Garrett moved that the Senate concur with the House in the adoption of their amendments to said bill.

And on that motion, a call of the roll was had resulting as follows:

Yeas 56; Nays 1.

The following voted in the affirmative:

Althoff	Halvorson	Obama	Soden
Bomke	Harmon	Peterson	Sullivan, D.
Brady	Hendon	Petka	Sullivan, J.
Clayborne	Hunter	Radogno	Syverson
Collins	Jacobs	Rauschenberger	Trotter
Cronin	Jones, J.	Righter	Viverito
Crotty	Jones, W.	Risinger	Walsh
Cullerton	Lauzen	Ronen	Watson
del Valle	Lightford	Roskam	Welch
DeLeo	Link	Rutherford	Winkel
Demuzio	Luechtefeld	Sandoval	Mr. President
Dillard	Maloney	Schoenberg	
Forby	Martinez	Shadid	
Garrett	Meeks	Sieben	
Haine	Munoz	Silverstein	

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The following voted in the negative:

Geo-Karis

The motion prevailed.

And the Senate concurred with the House in the adoption of their Amendments numbered 2, 3 and 4 to **Senate Bill No. 702**, by a two-thirds vote.

Ordered that the Secretary inform the House of Representatives thereof.

HOUSE BILL RECALLED

On motion of Senator Schoenberg, **House Bill No. 701** was recalled from the order of third reading to the order of second reading.

Senator Schoenberg offered the following amendment and moved its adoption:

AMENDMENT NO. 3

AMENDMENT NO. 3. Amend House Bill 701 by replacing everything after the enacting clause with the following:

"Section 5. The State Finance Act is amended by adding Sections 5.620, 5.621, and 6z-56 and changing Section 8h as follows:

(30 ILCS 105/5.620 new)

Sec. 5.620. The Health Care Services Trust Fund.

(30 ILCS 105/5.621 new)

Sec. 5.621. The Health and Human Services Medicaid Trust Fund.

(30 ILCS 105/6z-56 new)

Sec. 6z-56. The Health Care Services Trust Fund. The Health Care Services Trust Fund is hereby created as a special fund in the State treasury.

The Fund shall consist of moneys deposited, transferred, or appropriated into the Fund from units of local government other than a county with a population greater than 3,000,000, from the State, from federal matching funds, or from any other legal source.

Subject to appropriation, the moneys in the Fund shall be used by the Department of Public Aid to make payments to providers of services covered under the Medicaid or State Children's Health Insurance programs. Payments may be made out of the Fund only to providers located within the geographic jurisdiction of units of local government that make deposits, transfers, or appropriations into the Fund.

The Department of Public Aid shall adopt rules concerning application for and disbursement of the moneys in the Fund.

(30 ILCS 105/8h)

Sec. 8h. Transfers to General Revenue Fund. Notwithstanding any other State law to the contrary, the Director of the Governor's Office of Management and Budget ~~Bureau of the Budget~~ may from time to time direct the State Treasurer and Comptroller to transfer a specified sum from any fund held by the State Treasurer to the General Revenue Fund in order to help defray the State's operating costs for the fiscal year. The total transfer under this Section from any fund in any fiscal year shall not exceed the lesser of 8% of the revenues to be deposited into the fund during that year or 25% of the beginning balance in the fund. No transfer may be made from a fund under this Section that would have the effect of reducing the available balance in the fund to an amount less than the amount remaining unexpended and unreserved from the total appropriation from that fund for that fiscal year. This Section does not apply to any funds that are restricted by federal law to a specific use or to any funds in the Motor Fuel Tax Fund or the Hospital Provider Fund. Notwithstanding any other provision of this Section, the total transfer under this Section from the Road Fund or the State Construction Account Fund shall not exceed 5% of the revenues to be deposited into the fund during that year.

In determining the available balance in a fund, the Director of the Governor's Office of Management and Budget ~~Bureau of the Budget~~ may include receipts, transfers into the fund, and other resources anticipated to be available in the fund in that fiscal year.

The State Treasurer and Comptroller shall transfer the amounts designated under this Section as soon as may be practicable after receiving the direction to transfer from the Director of the Governor's Office of Management and Budget ~~Bureau of the Budget~~.

(Source: P.A. 93-32, eff. 6-20-03; revised 8-21-03.)

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Section 10. The Illinois Public Aid Code is amended by changing Sections 5-5.4, 5A-1, 5A-2, 5A-3, 5A-4, 5A-5, 5A-7, 5A-8, 5A-10, and 14-1 and by adding Sections 5A-12, 5A-13, and 5A-14 as follows: (305 ILCS 5/5-5.4) (from Ch. 23, par. 5-5.4)

Sec. 5-5.4. Standards of Payment - Department of Public Aid. The Department of Public Aid shall develop standards of payment of skilled nursing and intermediate care services in facilities providing such services under this Article which:

(1) Provide for the determination of a facility's payment for skilled nursing and intermediate care services on a prospective basis. The amount of the payment rate for all nursing facilities certified by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities, Long Term Care for Under Age 22 facilities, Skilled Nursing facilities, or Intermediate Care facilities under the medical assistance program shall be prospectively established annually on the basis of historical, financial, and statistical data reflecting actual costs from prior years, which shall be applied to the current rate year and updated for inflation, except that the capital cost element for newly constructed facilities shall be based upon projected budgets. The annually established payment rate shall take effect on July 1 in 1984 and subsequent years. No rate increase and no update for inflation shall be provided on or after July 1, 1994 and before July 1, 2004, unless specifically provided for in this Section.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1998 shall include an increase of 3%. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1998 shall include an increase of 3% plus \$1.10 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% plus \$3.00 per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 1999 shall include an increase of 1.6% and, for services provided on or after October 1, 1999, shall be increased by \$4.00 per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department. For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Skilled Nursing facilities or Intermediate Care facilities, the rates taking effect on July 1, 2000 shall include an increase of 2.5% per resident-day, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, a new payment methodology must be implemented for the nursing component of the rate effective July 1, 2003. The Department of Public Aid shall develop the new payment methodology using the Minimum Data Set (MDS) as the instrument to collect information concerning nursing home resident condition necessary to compute the rate. The Department of Public Aid shall develop the new payment methodology to meet the unique needs of Illinois nursing home residents while remaining subject to the appropriations provided by the General Assembly. A transition period from the payment methodology in effect on June 30, 2003 to the payment methodology in effect on July 1, 2003 shall be provided for a period not exceeding 2 years after implementation of the new payment methodology as follows:

(A) For a facility that would receive a lower nursing component rate per patient day under the new system than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be held at the level in effect on the date immediately preceding the date that the Department implements the new payment methodology until a higher nursing component rate of reimbursement is achieved by that facility.

(B) For a facility that would receive a higher nursing component rate per patient day under the payment methodology in effect on July 1, 2003 than the facility received effective on the date immediately preceding the date that the Department implements the new payment methodology, the nursing component rate per patient day for the facility shall be adjusted.

(C) Notwithstanding paragraphs (A) and (B), the nursing component rate per patient day for the facility shall be adjusted subject to appropriations provided by the General Assembly.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on March 1, 2001 shall include a statewide increase of 7.85%, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as Intermediate Care for the Developmentally Disabled facilities or Long Term Care for Under Age 22 facilities, the rates taking effect on April 1, 2002 shall include a statewide increase of 2.0%, as defined by the Department. This increase terminates on July 1, 2002; beginning July 1, 2002 these rates are reduced to the level of the rates in effect on March 31, 2002, as defined by the Department.

For facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the rates taking effect on July 1, 2001 shall be computed using the most recent cost reports on file with the Department of Public Aid no later than April 1, 2000, updated for inflation to January 1, 2001. For rates effective July 1, 2001 only, rates shall be the greater of the rate computed for July 1, 2001 or the rate effective on June 30, 2001.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2002, which shall be 5.9% less than the rates in effect on June 30, 2002.

Notwithstanding any other provision of this Section, for facilities licensed by the Department of Public Health under the Nursing Home Care Act as skilled nursing facilities or intermediate care facilities, the Illinois Department shall determine by rule the rates taking effect on July 1, 2003, which shall be 3.0% less than the rates in effect on June 30, 2002. This rate shall take effect only upon approval and implementation of the payment methodologies required under Section 5A-12.

Rates established effective each July 1 shall govern payment for services rendered throughout that fiscal year, except that rates established on July 1, 1996 shall be increased by 6.8% for services provided on or after January 1, 1997. Such rates will be based upon the rates calculated for the year beginning July 1, 1990, and for subsequent years thereafter until June 30, 2001 shall be based on the facility cost reports for the facility fiscal year ending at any point in time during the previous calendar year, updated to the midpoint of the rate year. The cost report shall be on file with the Department no later than April 1 of the current rate year. Should the cost report not be on file by April 1, the Department shall base the rate on the latest cost report filed by each skilled care facility and intermediate care facility, updated to the midpoint of the current rate year. In determining rates for services rendered on and after July 1, 1985, fixed time shall not be computed at less than zero. The Department shall not make any alterations of regulations which would reduce any component of the Medicaid rate to a level below what that component would have been utilizing in the rate effective on July 1, 1984.

(2) Shall take into account the actual costs incurred by facilities in providing services for recipients of skilled nursing and intermediate care services under the medical assistance program.

(3) Shall take into account the medical and psycho-social characteristics and needs of the patients.

(4) Shall take into account the actual costs incurred by facilities in meeting licensing and certification standards imposed and prescribed by the State of Illinois, any of its political subdivisions or municipalities and by the U.S. Department of Health and Human Services pursuant to Title XIX of the Social Security Act.

The Department of Public Aid shall develop precise standards for payments to reimburse nursing facilities for any utilization of appropriate rehabilitative personnel for the provision of rehabilitative services which is authorized by federal regulations, including reimbursement for services provided by qualified therapists or qualified assistants, and which is in accordance with accepted professional practices. Reimbursement also may be made for utilization of other supportive personnel under appropriate supervision.

(Source: P.A. 92-10, eff. 6-11-01; 92-31, eff. 6-28-01; 92-597, eff. 6-28-02; 92-651, eff. 7-11-02; 92-848, eff. 1-1-03; 93-20, eff. 6-20-03.)

(305 ILCS 5/5A-1) (from Ch. 23, par. 5A-1)

Sec. 5A-1. Definitions. As used in this Article, unless the context requires otherwise:

"Fund" means the Hospital Provider Fund.

"Hospital" means an institution, place, building, or agency located in this State that is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act, whether public or private and whether organized for profit or not-for-profit.

"Hospital provider" means a person licensed by the Department of Public Health to conduct, operate, or maintain a hospital, regardless of whether the person is a Medicaid provider. For purposes of this paragraph, "person" means any political subdivision of the State, municipal corporation, individual, firm,

partnership, corporation, company, limited liability company, association, joint stock association, or trust, or a receiver, executor, trustee, guardian, or other representative appointed by order of any court.

"Occupied bed days" means the sum of the number of days that each bed was occupied by a patient for all beds during calendar year 2001. Occupied bed days shall be computed separately for each hospital operated or maintained by a hospital provider.

~~"Adjusted gross hospital revenue" shall be determined separately for each hospital conducted, operated, or maintained by a hospital provider, and means the hospital provider's total gross patient revenues less Medicare contractual allowances, but does not include gross patient revenue (and the portion of any Medicare contractual allowance related thereto) from skilled or intermediate long term care services within the meaning of Title XVIII or XIX of the Social Security Act.~~

~~"Intergovernmental transfer payment" means the payments established under Section 15-3 of this Code, and includes without limitation payments payable under that Section for July, August, and September of 1992.~~

(Source: P.A. 87-861; 88-88.)

(305 ILCS 5/5A-2) (from Ch. 23, par. 5A-2)

Sec. 5A-2. Assessment; no local authorization to tax.

(a) Subject to Sections 5A-3 and 5A-10, an annual assessment on inpatient services is imposed on each hospital provider for State fiscal years 2004 and 2005 in an amount equal to the hospital's occupied bed days multiplied by \$84.19.

The Department of Public Aid shall use the number of occupied bed days as reported by each hospital on the Annual Survey of Hospitals conducted by the Department of Public Health to calculate the hospital's annual assessment. If the sum of a hospital's occupied bed days is not reported on the Annual Survey of Hospitals, then the Department of Public Aid may obtain the sum of occupied bed days from any source available, including, but not limited to, records maintained by the hospital provider, which may be inspected at all times during business hours of the day by the Department of Public Aid or its duly authorized agents and employees. For the privilege of engaging in the occupation of hospital provider, an assessment is imposed upon each hospital provider for the State fiscal year beginning on July 1, 1993 and ending on June 30, 1994, in an amount equal to 1.88% of the provider's adjusted gross hospital revenue for the most recent calendar year ending before the beginning of that State fiscal year.

Effective July 1, 1994 through June 30, 1996, an annual assessment is imposed upon each hospital provider in an amount equal to the provider's adjusted gross hospital revenue for the most recent calendar year ending before the beginning of that State fiscal year multiplied by the Provider's Savings Rate.

Effective July 1, 1996 through March 31, 1997, an assessment is imposed upon each hospital provider in an amount equal to three fourths of the provider's adjusted gross hospital revenue for calendar year 1995 multiplied by the Provider's Savings Rate. No assessment shall be imposed on or after April 1, 1997.

Before July 1, 1995, the Provider's Savings Rate is 1.88% multiplied by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which is the Maximum Section 5A-2 Contribution. Effective July 1, 1995, the Provider's Savings Rate is 1.25% multiplied by a fraction, the numerator of which is the Maximum Section 5A-2 Contribution minus the Cigarette Tax Contribution, and the denominator of which is the Maximum Section 5A-2 Contribution.

The Cigarette Tax Contribution is the sum of the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 2(a) of the Cigarette Tax Act, plus the total amount deposited in the Hospital Provider Fund in the previous State fiscal year pursuant to Section 5A-3(c) of this Code.

The Maximum Section 5A-2 Contribution is the total amount of tax imposed by this Section in the previous State fiscal year on providers subject to this Act, multiplied by a fraction the numerator of which is adjusted gross hospital revenues reported to the Department by providers subject to this Act for the previous State fiscal year and the denominator of which is adjusted gross hospital revenues reported to the Department by providers subject to this Act for the State fiscal year immediately preceding the previous State fiscal year.

The Department shall notify hospital providers of the Provider's Savings Rate by mailing a notice to each provider's last known address as reflected by the records of the Illinois Department.

(b) Nothing in this amendatory Act of the 93rd General Assembly 1995 shall be construed to authorize any home rule unit or other unit of local government to license for revenue or to impose a tax or assessment upon hospital providers or the occupation of hospital provider, or a tax or assessment measured by the income or earnings of a hospital provider.

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(c) As provided in Section 5A-14, this Section is repealed on July 1, 2005.
 (Source: P.A. 88-88; 89-21, eff. 7-1-95; 89-499, eff. 6-28-96.)

(305 ILCS 5/5A-3) (from Ch. 23, par. 5A-3)

Sec. 5A-3. Exemptions; intergovernmental transfers.

(a) (Blank). A hospital provider which is a county with a population of more than 3,000,000 that makes intergovernmental transfer payments as provided in Section 15-3 of this Code shall be exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the county shall pay the assessment imposed by Section 5A-2 for all assessment periods beginning on or after July 1, 1992, and the assessment so paid shall be creditable against the intergovernmental transfer payments.

(b) A hospital provider that is a State agency, a State university, or a county with a population of 3,000,000 or more is exempt from the assessment imposed by Section 5A-2. A hospital organized under the University of Illinois Hospital Act and exempt from the assessment imposed by Section 5A-2 is hereby authorized to enter into an interagency agreement with the Illinois Department to make intergovernmental transfer payments to the Illinois Department. These payments shall be deposited into the University of Illinois Hospital Services Fund or, if that Fund ceases to exist, into the General Revenue Fund.

(b-2) A hospital provider that is a county with a population of less than 3,000,000 or a township, municipality, hospital district, or any other local governmental unit is exempt from the assessment imposed by Section 5A-2.

(b-5) (Blank). A hospital operated by the Department of Human Services in the course of performing its mental health and developmental disabilities functions is exempt from the assessment imposed by Section 5A-2.

(b-10) A hospital provider whose hospital does not charge for its services is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(b-15) A hospital provider whose hospital is licensed by the Department of Public Health as a psychiatric hospital is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(b-20) A hospital provider whose hospital is licensed by the Department of Public Health as a rehabilitation hospital is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(b-25) A hospital provider whose hospital (i) is not a psychiatric hospital, rehabilitation hospital, or children's hospital and (ii) has an average length of inpatient stay greater than 25 days is exempt from the assessment imposed by Section 5A-2, unless the exemption is adjudged to be unconstitutional or otherwise invalid, in which case the hospital provider shall pay the assessment imposed by Section 5A-2.

(c) (Blank). The Illinois Department is hereby authorized to enter into agreements with publicly owned or operated hospitals to make intergovernmental transfer payments to the Illinois Department. These payments shall be deposited into the Hospital Provider Fund, except that any payments arising under an agreement with a hospital organized under the University of Illinois Hospital Act shall be deposited into the University of Illinois Hospital Services Fund, if that Fund exists.

(Source: P.A. 88-88; 88-554, eff. 7-26-94; 89-21, eff. 7-1-95; 89-507, eff. 7-1-97.)

(305 ILCS 5/5A-4) (from Ch. 23, par. 5A-4)

Sec. 5A-4. Payment of assessment; penalty.

(a) The annual assessment imposed by Section 5A-2 for State fiscal year 2004 shall be due and payable on June 18 of the year. The assessment imposed by Section 5A-2 for a State fiscal year 2005 shall be due and payable in quarterly installments, each equalling one-fourth of the assessment for the year, on July 19, October 19, January 18, and April 19. September 30, December 31, March 31, and May 31 of the year; except that for the period July 1, 1996 through March 31, 1997, the assessment imposed by Section 5A-2 for that period shall be due and payable in 3 equal installments on September 30, December 31, and March 31 of that period. No installment payment of an assessment imposed by Section 5A-2 shall be due and payable, however, until after: (i) the hospital provider receives written notice from the Department of Public Aid that the payment methodologies to hospitals required under Section 5A-12 have been approved by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services and the waiver under 42 CFR 433.68 for the assessment imposed by Section 5A-2 has been granted by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services; and (ii) the hospital has received the payments required

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under Section 5A-12.

(b) The Illinois Department is authorized to establish delayed payment schedules for hospital providers that are unable to make installment payments when due under this Section due to financial difficulties, as determined by the Illinois Department.

(c) If a hospital provider fails to pay the full amount of an installment when due (including any extensions granted under subsection (b)), there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment imposed by Section 5A-2 a penalty assessment equal to the lesser of (i) 5% of the amount of the installment not paid on or before the due date plus 5% of the portion thereof remaining unpaid on the last day of each ~~30-day period month~~ thereafter or (ii) 100% of the installment amount not paid on or before the due date. For purposes of this subsection, payments will be credited first to unpaid installment amounts (rather than to penalty or interest), beginning with the most delinquent installments.

(Source: P.A. 88-88; 89-499, eff. 6-28-96.)

(305 ILCS 5/5A-5) (from Ch. 23, par. 5A-5)

Sec. 5A-5. ~~Notice Reporting~~; penalty; maintenance of records.

(a) After December 31 of each year (~~except as otherwise provided in this subsection~~), and on or before March 31 of the succeeding year, the Department of Public Aid shall send a notice of assessment to every hospital provider subject to assessment under this Article shall file a return with the Illinois Department. The notice of assessment shall notify the hospital of its return shall report the adjusted gross hospital revenue from the calendar year just ended and shall be utilized by the Illinois Department to calculate the assessment for the State fiscal year commencing on the next July 1, except that the notice return for the State fiscal year commencing July 1, 2003 1992 and the report of revenue for calendar year 1991 shall be sent filed on or before June 1, 2004 September 30, 1992. The notice return shall be on a form prepared by the Illinois Department and shall state the following:

(1) The name of the hospital provider.

(2) The address of the hospital provider's principal place of business from which the provider engages in the occupation of hospital provider in this State, and the name and address of each hospital operated, conducted, or maintained by the provider in this State.

(3) ~~The occupied bed days adjusted gross hospital revenue of the hospital provider for the calendar year just ended, the amount of assessment imposed under Section 5A-2 for the State fiscal year for which the notice return is sent filed, and the amount of each quarterly installment to be paid during the State fiscal year.~~

(4) ~~(Blank). The amount of penalty due, if any.~~

(5) Other reasonable information ~~as determined by the Illinois Department requires.~~

(b) If a hospital provider conducts, operates, or maintains more than one hospital licensed by the Illinois Department of Public Health, the provider ~~shall may not file a single return covering all those hospitals, but shall file a separate return for each hospital and shall compute and pay the assessment for each hospital separately.~~

(c) Notwithstanding any other provision in this Article, in the case of a person who ceases to conduct, operate, or maintain a hospital in respect of which the person is subject to assessment under this Article as a hospital provider, the assessment for the State fiscal year in which the cessation occurs shall be adjusted by multiplying the assessment computed under Section 5A-2 by a fraction, the numerator of which is the number of ~~days months~~ in the year during which the provider conducts, operates, or maintains the hospital and the denominator of which is ~~365 12~~. Immediately upon ceasing to conduct, operate, or maintain a hospital, the person shall pay file a final, amended return with the Illinois Department not more than 90 days after the cessation reflecting the adjustment and shall pay with the final return the assessment for the year as so adjusted (to the extent not previously paid).

(d) Notwithstanding any other provision in this Article, a provider who commences conducting, operating, or maintaining a hospital, upon notice by the Illinois Department, shall file an initial return for the State fiscal year in which the commencement occurs within 90 days thereafter and shall pay the assessment computed under Section 5A-2 and subsection (e) in equal installments on the due dates stated in the notice date of the return and on the regular installment due dates for the State fiscal year occurring after the due ~~dates date~~ of the initial notice return.

(e) Notwithstanding any other provision in this Article, in the case of a hospital provider that did not conduct, operate, or maintain a hospital throughout ~~the calendar year 2001 preceding a State fiscal year~~, the assessment for that State fiscal year shall be computed on the basis of hypothetical ~~occupied bed days adjusted gross hospital revenue~~ for the full calendar year as determined ~~by rules adopted by the Illinois Department (which may be based on annualization of the provider's actual revenues for a portion of the calendar year, or revenues of a comparable hospital for the year, including revenues realized by a~~

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prior provider from the same hospital during the year).

(f) (Blank). In the case of a hospital provider existing as a corporation or legal entity other than an individual, the return filed by it shall be signed by its president, vice president, secretary, or treasurer or by its properly authorized agent.

(g) (Blank). If a hospital provider fails to file its return for a State fiscal year on or before the due date of the return, there shall, unless waived by the Illinois Department for reasonable cause, be added to the assessment imposed by Section 5A-2 for the State fiscal year a penalty assessment equal to 25% of the assessment imposed for the year.

(h) (Blank). Every hospital provider subject to assessment under this Article shall keep sufficient records to permit the determination of adjusted gross hospital revenue on a calendar year basis. All such records shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Illinois Department or its duly authorized agents and employees. (Source: P.A. 87-861.)

(305 ILCS 5/5A-7) (from Ch. 23, par. 5A-7)

Sec. 5A-7. Administration; enforcement provisions.

(a) To the extent practicable, the Illinois Department shall administer and enforce this Article and collect the assessments, interest, and penalty assessments imposed under this Article using procedures employed in its administration of this Code generally and, as it deems appropriate, in a manner similar to that in which the Department of Revenue administers and collects the retailers' occupation tax under the Retailers' Occupation Tax Act ("ROTA"). Instead of certificates of registration, the Illinois Department shall establish and maintain a listing of all hospital providers appearing in the licensing records of the Department of Public Health, which shall show each provider's name, principal place of business, and the name and address of each hospital operated, conducted, or maintained by the provider in this State. In addition, the following specified provisions of the Retailers' Occupation Tax Act are incorporated by reference into this Section except that the Illinois Department and its Director (rather than the Department of Revenue and its Director) and every hospital provider subject to assessment measured by occupied bed days ~~adjusted gross hospital revenue and to the return filing requirements of this Article~~ (rather than persons subject to retailers' occupation tax measured by gross receipts from the sale of tangible personal property at retail ~~and to the return filing requirements of ROTA~~) shall have the powers, duties, and rights specified in these ROTA provisions, as modified in this Section or by the Illinois Department in a manner consistent with this Article and except as manifestly inconsistent with the other provisions of this Article:

(1) ROTA, Section 4 (examination of return; notice of correction; evidence;

limitations; protest and hearing), except that (i) the Illinois Department shall issue notices of assessment liability (rather than notices of tax liability as provided in ROTA, Section 4); (ii) in the case of a fraudulent return or in the case of an extended period agreed to by the Illinois Department and the hospital provider before the expiration of the limitation period, no notice of assessment liability shall be issued more than 3 years after the later of the due date of the return required by Section 5A-5 or the date the return (or an amended return) was filed (rather within the period stated in ROTA, Section 4); and (iii) the penalty provisions of ROTA, Section 4 shall not apply.

(2) ROTA, Sec. 5 (failure to make return; failure to pay assessment), except that the penalty and interest provisions of ROTA, Section 5 shall not apply.

(3) ROTA, Section 5a (lien; attachment; termination; notice; protest; review; release of lien; status of lien).

(4) ROTA, Section 5b (State lien notices; State lien index; duties of recorder and registrar of titles).

(5) ROTA, Section 5c (liens; certificate of release).

(6) ROTA, Section 5d (Department not required to furnish bond; claim to property attached or levied upon).

(7) ROTA, Section 5e (foreclosure on liens; enforcement).

(8) ROTA, Section 5f (demand for payment; levy and sale of property; limitation).

(9) ROTA, Section 5g (sale of property; redemption).

(10) ROTA, Section 5j (sales on transfers outside usual course of business; report; payment of assessment; rights and duties of purchaser; penalty), except that notice shall be provided to the Illinois Department as specified by rule.

(11) ROTA, Section 6 (erroneous payments; credit or refund), provided that (i) the Illinois Department may only apply an amount otherwise subject to credit or refund to a liability arising under this Article; (ii) except in the case of an extended period agreed to by the Illinois Department and the hospital provider before the expiration of this limitation period, a claim for credit

or refund must be filed no more than 3 years after the due date of the return required by Section 5A-5 (rather than the time limitation stated in ROTA, Section 6); and (iii) credits or refunds shall not bear interest.

(12) ROTA, Section 6a (claims for credit or refund).

(13) ROTA, Section 6b (tentative determination of claim; notice; hearing; review), provided that a hospital provider or its representative shall have 60 days (rather than 20 days) within which to file a protest and request for hearing in response to a tentative determination of claim.

(14) ROTA, Section 6c (finality of tentative determinations).

(15) ROTA, Section 8 (investigations and hearings).

(16) ROTA, Section 9 (witness; immunity).

(17) ROTA, Section 10 (issuance of subpoenas; attendance of witnesses; production of books and records).

(18) ROTA, Section 11 (information confidential; exceptions).

(19) ROTA, Section 12 (rules and regulations; hearing; appeals), except that a hospital provider shall not be required to file a bond or be subject to a lien in lieu thereof in order to seek court review under the Administrative Review Law of a final assessment or revised final assessment or the equivalent thereof issued by the Illinois Department under this Article.

(b) In addition to any other remedy provided for and without sending a notice of assessment liability, the Illinois Department may collect an unpaid assessment by withholding, as payment of the assessment, reimbursements or other amounts otherwise payable by the Illinois Department to the provider.

(Source: P.A. 87-861.)

(305 ILCS 5/5A-8) (from Ch. 23, par. 5A-8)

Sec. 5A-8. Hospital Provider Fund.

(a) There is created in the State Treasury the Hospital Provider Fund. Interest earned by the Fund shall be credited to the Fund. The Fund shall not be used to replace any moneys appropriated to the Medicaid program by the General Assembly.

(b) The Fund is created for the purpose of receiving moneys in accordance with Section 5A-6 and disbursing moneys only for the following purposes, notwithstanding any other provision of law as follows:

(1) For making payments to hospitals as required under Articles V, VI, and XIV ~~hospital inpatient care, hospital ambulatory care, and disproportionate share hospital distributive expenditures made under Title XIX of the Social Security Act and Article V of this Code and under the Children's Health Insurance Program Act.~~

(2) For the reimbursement of moneys collected by the Illinois Department from hospitals or hospital providers through error or mistake in performing the activities authorized under this Article and Article V of this Code ~~and for making required payments under Section 14-9 of this Code if there are no moneys available for those payments in the Hospital Services Trust Fund.~~

(3) For payment of administrative expenses incurred by the Illinois Department or its agent in performing the activities authorized by this Article.

(4) For payments of any amounts which are reimbursable to the federal government for payments from this Fund which are required to be paid by State warrant.

(5) For making transfers ~~to the General Obligation Bond Retirement and Interest Fund~~, as those transfers are authorized in the proceedings authorizing debt under the Short Term Borrowing Act, but transfers made under this paragraph (5) shall not exceed the principal amount of debt issued in anticipation of the receipt by the State of moneys to be deposited into the Fund.

(6) For making transfers to any other fund in the State treasury, but transfers made under this paragraph (6) shall not exceed the amount transferred previously from that other fund into the Hospital Provider Fund.

(7) For making transfers to the Health and Human Services Medicaid Trust Fund, including 20% of the moneys received from hospital providers under Section 5A-4 and transferred into the Hospital Provider Fund under Section 5A-6. Transfers under this paragraph shall be made within 7 days after the payments have been received pursuant to the schedule of payments provided in subsection (a) of Section 5A-4.

(8) For making refunds to hospital providers pursuant to Section 5A-10.

Disbursements from the Fund, other than transfers authorized under paragraphs (5) and (6) of this subsection ~~to the General Obligation Bond Retirement and Interest Fund~~, shall be by warrants drawn by the State Comptroller upon receipt of vouchers duly executed and certified by the Illinois Department.

(c) The Fund shall consist of the following:

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- (1) All moneys collected or received by the Illinois Department from the hospital provider assessment imposed by this Article.
- (2) All federal matching funds received by the Illinois Department as a result of expenditures made by the Illinois Department that are attributable to moneys deposited in the Fund.
- (3) Any interest or penalty levied in conjunction with the administration of this Article.

(4) ~~Moneys transferred from another fund in the State treasury. Any balance in the Hospital Services Trust Fund in the State Treasury. The balance shall be transferred to the Fund upon certification by the Illinois Department to the State Comptroller that all of the disbursements required by Section 14-2(b) of this Code have been made.~~

- (5) All other moneys received for the Fund from any other source, including interest earned thereon.

(d) ~~(Blank). The Fund shall cease to exist on October 1, 1999. Any balance in the Fund as of that date shall be transferred to the General Revenue Fund. Any moneys that otherwise would be paid into the Fund on or after that date shall be deposited into the General Revenue Fund. Any disbursements on or after that date that otherwise would be made from the Fund may be appropriated by the General Assembly from the General Revenue Fund.~~

(Source: P.A. 89-626, eff. 8-9-96; 90-587, eff. 7-1-98.)

(305 ILCS 5/5A-10) (from Ch. 23, par. 5A-10)

Sec. 5A-10. Applicability.

(a) The assessment imposed by Section 5A-2 shall not take effect or shall cease to be imposed, and any moneys remaining in the Fund shall be refunded to hospital providers in proportion to the amounts paid by them, if:

(1) the sum of the appropriations for State fiscal years 2004 and 2005 from the General Revenue Fund for hospital payments under the medical assistance program is less than \$4,500,000,000; or

(2) the Department of Public Aid makes changes in its rules that reduce the hospital inpatient or outpatient payment rates, including adjustment payment rates, in effect on October 1, 2003, except for hospitals described in subsection (b) of Section 5A-3 and except for changes in outpatient payment rates made to comply with the federal Health Insurance Portability and Accountability Act, so long as those changes do not reduce aggregate expenditures below the amount expended in State fiscal year 2003 for such services; or

(3) the payments to hospitals required under Section 5A-12 are changed or are not eligible for federal matching funds under Title XIX or XXI of the Social Security Act.

(b) The assessment imposed by Section 5A-2 shall not take effect or shall cease to be imposed if the assessment is determined to be an impermissible tax amount of matching federal funds under Title XIX of the Social Security Act is eliminated or significantly reduced on account of the assessment. Moneys in the Hospital Provider Fund derived from assessments imposed prior thereto shall be disbursed in accordance with Section 5A-8 to the extent federal matching is not reduced due to the impermissibility of the assessments, and any remaining moneys assessments shall be refunded to hospital providers in proportion to the amounts paid by them.

(Source: P.A. 87-861.)

(305 ILCS 5/5A-12 new)

Sec. 5A-12. Hospital access improvement payments.

(a) To improve access to hospital services, for hospital services rendered on or after June 1, 2004, the Department of Public Aid shall make payments to hospitals as set forth in this Section, except for hospitals described in subsection (b) of Section 5A-3. These payments shall be paid on a quarterly basis. For State fiscal year 2004, the Department shall pay the total amounts required under this Section; these amounts shall be paid on or before June 15 of the year. In subsequent State fiscal years, the total amounts required under this Section shall be paid in 4 equal installments on or before July 15, October 15, January 14, and April 15 of the year. Payments under this Section are not due and payable, however, until (i) the methodologies described in this Section are approved by the federal government in an appropriate State Plan amendment, (ii) the assessment imposed under this Article is determined to be a permissible tax under Title XIX of the Social Security Act, and (iii) the assessment is in effect.

(b) High volume payment. In addition to rates paid for inpatient hospital services, the Department of Public Aid shall pay, to each Illinois hospital that provided more than 20,000 Medicaid inpatient days of care during State fiscal year 2001 (except for hospitals that qualify for adjustment payments under Section 5-5.02 for the 12-month period beginning on October 1, 2002), \$190 for each Medicaid inpatient day of care provided during that fiscal year. A hospital that provided less than 30,000 Medicaid inpatient days of care during that period, however, is not entitled to receive more than \$3,500,000 per year in such

payments.

(c) Medicaid inpatient utilization rate adjustment. In addition to rates paid for inpatient hospital services, the Department of Public Aid shall pay each Illinois hospital (except for hospitals described in Section 5A-3), for each Medicaid inpatient day of care provided during State fiscal year 2001, an amount equal to the product of \$57.25 multiplied by the quotient of 1 divided by the greater of 1.6% or the hospital's Medicaid inpatient utilization rate (as used to determine eligibility for adjustment payments under Section 5-5.02 for the 12-month period beginning on October 1, 2002). The total payments under this subsection to a hospital may not exceed \$10,500,000 annually.

(d) Psychiatric base rate adjustment.

(1) In addition to rates paid for inpatient psychiatric services, the Department of Public Aid shall pay each Illinois general acute care hospital with a distinct part-psychiatric unit, for each Medicaid inpatient psychiatric day of care provided in State fiscal year 2001, an amount equal to \$400 less the hospital's per-diem rate for Medicaid inpatient psychiatric services as in effect on October 1, 2003. In no event, however, shall that amount be less than zero.

(2) For distinct part-psychiatric units of Illinois general acute care hospitals, except for all hospitals excluded in Section 5A-3, whose inpatient per-diem rate as in effect on October 1, 2003 is greater than \$400, the Department shall pay, in addition to any other amounts authorized under this Code, \$25 for each Medicaid inpatient psychiatric day of care provided in State fiscal year 2001.

(e) Supplemental tertiary care adjustment. In addition to rates paid for inpatient services, the Department of Public Aid shall pay to each Illinois hospital eligible for tertiary care adjustment payments under 89 Ill. Adm. Code 148.296, as in effect for State fiscal year 2003, a supplemental tertiary care adjustment payment equal to the tertiary care adjustment payment required under 89 Ill. Adm. Code 148.296, as in effect for State fiscal year 2003.

(f) Medicaid outpatient utilization rate adjustment. In addition to rates paid for outpatient hospital services, the Department of Public Aid shall pay each Illinois hospital (except for hospitals described in Section 5A-3), an amount equal to the product of 2.45% multiplied by the hospital's Medicaid outpatient charges multiplied by the quotient of 1 divided by the greater of 1.6% or the hospital's Medicaid outpatient utilization rate. The total payments under this subsection to a hospital may not exceed \$6,750,000 annually.

For purposes of this subsection:

"Medicaid outpatient charges" means the charges for outpatient services provided to Medicaid patients for State fiscal year 2001 as submitted by the hospital on the UB-92 billing form or under the ambulatory procedure listing and adjudicated by the Department of Public Aid on or before September 12, 2003.

"Medicaid outpatient utilization rate" means a fraction, the numerator of which is the hospital's Medicaid outpatient charges and the denominator of which is the total number of the hospital's charges for outpatient services for the hospital's fiscal year ending in 2001.

(g) State outpatient service adjustment. In addition to rates paid for outpatient hospital services, the Department of Public Aid shall pay each Illinois hospital an amount equal to the product of 75.5% multiplied by the hospital's Medicaid outpatient services submitted to the Department on the UB-92 billing form for State fiscal year 2001 multiplied by the hospital's outpatient access fraction.

For purposes of this subsection, "outpatient access fraction" means a fraction, the numerator of which is the hospital's Medicaid payments for outpatient services for ambulatory procedure listing services submitted to the Department on the UB-92 billing form for State fiscal year 2001, and the denominator of which is the hospital's Medicaid outpatient services submitted to the Department on the UB-92 billing form for State fiscal year 2001.

The total payments under this subsection to a hospital may not exceed \$3,000,000 annually.

(h) Rural hospital outpatient adjustment. In addition to rates paid for outpatient hospital services, the Department of Public Aid shall pay each Illinois rural hospital an amount equal to the product of \$14,500,000 multiplied by the rural hospital outpatient adjustment fraction.

For purposes of this subsection, "rural hospital outpatient adjustment fraction" means a fraction, the numerator of which is the hospital's Medicaid visits for outpatient services for ambulatory procedure listing services submitted to the Department on the UB-92 billing form for State fiscal year 2001, and the denominator of which is the total Medicaid visits for outpatient services for ambulatory procedure listing services for all Illinois rural hospitals submitted to the Department on the UB-92 billing form for State fiscal year 2001.

For purposes of this subsection, "rural hospital" has the same meaning as in 89 Ill. Adm. Code 148.25, as in effect on September 30, 2003.

(i) Merged/closed hospital adjustment. If any hospital files a combined Medicaid cost report with another hospital after January 1, 2001, and if that hospital subsequently closes, then except for the

payments described in subsection (e), all payments described in the various subsections of this Section shall, before the application of the annual limitation amount specified in each such subsection, be multiplied by a fraction, the numerator of which is the number of occupied bed days attributable to the open hospital and the denominator of which is the sum of the number of occupied bed days of each open hospital and each closed hospital. For purposes of this subsection, "occupied bed days" has the same meaning as the term is defined in subsection (a) of Section 5A-2.

(j) For purposes of this Section, the terms "Medicaid days", "Medicaid charges", and "Medicaid services" do not include any days, charges, or services for which Medicare was liable for payment.

(k) As provided in Section 5A-14, this Section is repealed on July 1, 2005.

(305 ILCS 5/5A-13 new)

Sec. 5A-13. Emergency rulemaking. The Department of Public Aid may adopt rules necessary to implement this amendatory Act of the 93rd General Assembly through the use of emergency rulemaking in accordance with Section 5-45 of the Illinois Administrative Procedure Act. For purposes of that Act, the General Assembly finds that the adoption of rules to implement this amendatory Act of the 93rd General Assembly is deemed an emergency and necessary for the public interest, safety, and welfare.

(305 ILCS 5/5A-14 new)

Sec. 5A-14. Repeal of assessments and disbursements.

(a) Section 5A-2 is repealed on July 1, 2005.

(b) Section 5A-12 is repealed on July 1, 2005.

(305 ILCS 5/14-1) (from Ch. 23, par. 14-1)

Sec. 14-1. Definitions. As used in this Article, unless the context requires otherwise:

~~"Fund" means the Hospital Services Trust Fund.~~

~~"Estimated Rate Year Utilization" means the hospital's projected utilization for the State fiscal year in which the fee is due (for example, fiscal year 1992 for fees imposed in State fiscal year 1992, fiscal year 1993 for fees imposed in State fiscal year 1993, and so forth).~~

~~"Gross Receipts" means all payments for medical services delivered under Title XIX of the Social Security Act and Articles V, VI, and VII of this Code and shall mean any and all payments made by the Illinois Department, or a Division thereof, to a Medical Assistance Program provider certified to participate in the Illinois Medical Assistance Program, for services rendered eligible for Medical Assistance under Articles V, VI and VII of this Code, State regulations and the federal Medicaid Program as defined in Title XIX of the Social Security Act and federal regulations.~~

"Hospital" means any institution, place, building, or agency, public or private, whether organized for profit or not-for-profit, which is located in the State and is subject to licensure by the Illinois Department of Public Health under the Hospital Licensing Act or any institution, place, building, or agency, public or private, whether organized for profit or not-for-profit, which meets all comparable conditions and requirements of the Hospital Licensing Act in effect for the state in which it is located, and is required to submit cost reports to the Illinois Department under Title 89, Part 148, of the Illinois Administrative Code, but shall not include the University of Illinois Hospital as defined in the University of Illinois Hospital Act or a county hospital in a county of over 3 million population.

~~"Total Medicaid Base Year Spending" means the hospital's State fiscal year 1991 weighted average payment rates, as defined by rule, excluding payments under Section 5-5.02 of this Code, reduced by 5% and multiplied by the hospital's estimated rate year utilization.~~

(Source: P.A. 87-13.)

(305 ILCS 5/Art. V-D rep.)

(305 ILCS 5/14-2 rep.)

(305 ILCS 5/14-3 rep.)

(305 ILCS 5/14-4 rep.)

(305 ILCS 5/14-5 rep.)

(305 ILCS 5/14-6 rep.)

(305 ILCS 5/14-7 rep.)

(305 ILCS 5/14-9 rep.)

(305 ILCS 5/14-10 rep.)

Sec. 11. The Illinois Public Aid Code is amended by repealing Article V-D and Sections 14-2, 14-3, 14-4, 14-5, 14-6, 14-7, 14-9, and 14-10.

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

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And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Schoenberg, **House Bill No. 701**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 51; Nays 6.

The following voted in the affirmative:

Bomke	Haine	Meeks	Silverstein
Clayborne	Halvorson	Munoz	Soden
Collins	Harmon	Obama	Sullivan, D.
Cronin	Hendon	Radogno	Sullivan, J.
Crotty	Hunter	Rauschenberger	Syverson
Cullerton	Jacobs	Righter	Trotter
del Valle	Jones, J.	Risinger	Viverito
DeLeo	Jones, W.	Ronen	Walsh
Demuzio	Lightford	Rutherford	Watson
Dillard	Link	Sandoval	Welch
Forby	Luechtefeld	Schoenberg	Winkel
Garrett	Maloney	Shadid	Mr. President
Geo-Karis	Martinez	Sieben	

The following voted in the negative:

Althoff	Lauzen	Petka
Brady	Peterson	Roskam

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendment adopted thereto.

HOUSE BILL RECALLED

On motion of Senator Clayborne, **House Bill No. 2200** was recalled from the order of third reading to the order of second reading.

Senator Clayborne offered the following amendment and moved its adoption:

AMENDMENT NO. 4

AMENDMENT NO. 4. Amend House Bill 2200, AS AMENDED, by replacing everything after the enacting clause with the following:

"Section 5. The Public Utilities Act is amended by changing Section 7-204 as follows:
(220 ILCS 5/7-204) (from Ch. 111 2/3, par. 7-204)

Sec. 7-204. Reorganization defined; Commission approval therefore.

(a) For purposes of this Section, "reorganization" means any transaction which, regardless of the means by which it is accomplished, results in a change in the ownership of a majority of the voting capital stock of an Illinois public utility; or the ownership or control of any entity which owns or controls a majority of the voting capital stock of a public utility; or by which 2 public utilities merge, or by which a public utility acquires substantially all of the assets of another public utility; or the transactions described in subsection (g); provided, however, that "reorganization" as used in this Section shall not include a mortgage or pledge transaction entered into to secure a bona fide borrowing by the party

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granting the mortgage or making the pledge.

In addition to the foregoing, "reorganization" shall include for purposes of this Section any transaction which, regardless of the means by which it is accomplished, will have the effect of terminating the affiliated interest status of any entity as defined in paragraphs (a), (b), (c) or (d) of subsection (2) of Section 7-101 of this Act where such entity had transactions with the public utility, in the 12 calendar months immediately preceding the date of termination of such affiliated interest status subject to subsection (3) of Section 7-101 of this Act with a value greater than 15% of the public utility's revenues for that same 12-month period. If the proposed transaction would have the effect of terminating the affiliated interest status of more than one Illinois public utility, the utility with the greatest revenues for the 12-month period shall be used to determine whether such proposed transaction is a reorganization for the purposes of this Section. The Commission shall have jurisdiction over any reorganization as defined herein.

(b) No reorganization shall take place without prior Commission approval. The Commission shall not approve any proposed reorganization if the Commission finds, after notice and hearing, that the reorganization will adversely affect the utility's ability to perform its duties under this Act. In reviewing any proposed reorganization, the Commission must find that:

(1) the proposed reorganization will not diminish the utility's ability to provide adequate, reliable, efficient, safe and least-cost public utility service;

(2) the proposed reorganization will not result in the unjustified subsidization of non-utility activities by the utility or its customers;

(3) costs and facilities are fairly and reasonably allocated between utility and non-utility activities in such a manner that the Commission may identify those costs and facilities which are properly included by the utility for ratemaking purposes;

(4) the proposed reorganization will not significantly impair the utility's ability to raise necessary capital on reasonable terms or to maintain a reasonable capital structure;

(5) the utility will remain subject to all applicable laws, regulations, rules, decisions and policies governing the regulation of Illinois public utilities;

(6) the proposed reorganization is not likely to have a significant adverse effect on competition in those markets over which the Commission has jurisdiction;

(7) the proposed reorganization is not likely to result in any adverse rate impacts on retail customers.

(c) The Commission shall not approve a reorganization without ruling on: (i) the allocation of any savings resulting from the proposed reorganization; and (ii) whether the companies should be allowed to recover any costs incurred in accomplishing the proposed reorganization and, if so, the amount of costs eligible for recovery and how the costs will be allocated.

(d) The Commission shall issue its Order approving or denying the proposed reorganization within 11 months after the application is filed. The Commission may extend the deadline for a period equivalent to the length of any delay which the Commission finds to have been caused by the Applicant's failure to provide data or information requested by the Commission or that the Commission ordered the Applicant to provide to the parties. The Commission may also extend the deadline by an additional period not to exceed 3 months to consider amendments to the Applicant's filing, or to consider reasonably unforeseeable changes in circumstances subsequent to the Applicant's initial filing.

(e) Subsections (c) and (d) and subparagraphs (6) and (7) of subsection (b) of this Section shall apply only to merger applications submitted to the Commission subsequent to April 23, 1997. No other Commission approvals shall be required for mergers that are subject to this Section.

(f) In approving any proposed reorganization pursuant to this Section the Commission may impose such terms, conditions or requirements as, in its judgment, are necessary to protect the interests of the public utility and its customers.

(g) The Commission shall, within 9 months after an application is filed, but in no event later than one year after the effective date of this amendatory Act of the 93rd General Assembly, issue its Order approving or denying any proposed reorganization involving the acquisition by a public utility or its affiliate of all of the common stock or substantially all of the operating assets, whether by merger, creation and acquisition of a limited liability or other company, or otherwise, of another public utility that has secured debt which is, or was, within the year prior to the filing of the application, rated below investment grade by at least 3 nationally recognized rating agencies. The Commission shall in such a proceeding review and approve, with or without modification, the entries to be made as a result of such reorganization on the books and records of the reorganized public utility. The Commission shall further have the authority, consistent with State jurisdiction, to review and approve in such proceeding any purchased power agreement related to the reorganization agreement that is entered into by the

reorganized utility, or by a public utility that becomes affiliated with such public utility as a result of the reorganization, and may condition its approval of any such agreement in such manner as it may deem necessary to safeguard the public interest. If the reorganization involves the sale or transfer of operating assets, then the Commission shall also in such proceeding have the authority to make such other determinations and approvals as may be required to implement the reorganization and provide for an orderly transition, including, but not limited to, providing for the adoption by the reorganized public utility of existing rates, terms, and conditions (including those filed pursuant to Section 16-108 or Article XVIII of this Act), the abandonment, transfer or granting of certificates, or the assignment of service area agreements.

(Source: P.A. 90-561, eff. 12-16-97.)

Section 99. Effective date. This Act takes effect upon becoming law."

The motion prevailed.

And the amendment was adopted, and ordered printed.

There being no further amendments, the bill, as amended, was ordered to a third reading.

At the hour of 11:03 o'clock p.m., Senator DeLeo presiding.

READING BILL FROM THE HOUSE OF REPRESENTATIVES A THIRD TIME

On motion of Senator Clayborne, **House Bill No. 2200**, having been printed as received from the House of Representatives, together with all Senate Amendments adopted thereto, was taken up and read by title a third time.

And the question being, "Shall this bill pass?" it was decided in the affirmative by the following vote:

Yeas 39; Nays 10; Present 5.

The following voted in the affirmative:

Bomke	Hunter	Peterson	Silverstein
Brady	Jacobs	Petka	Soden
Clayborne	Jones, J.	Radogno	Sullivan, D.
Cronin	Jones, W.	Rauschenberger	Syverson
Crotty	Laufen	Righter	Trotter
DeLeo	Lightford	Risinger	Viverito
Dillard	Link	Roskam	Walsh
Geo-Karis	Luechtefeld	Rutherford	Watson
Haine	Maloney	Schoenberg	Mr. President
Hendon	Meeks	Sieben	

The following voted in the negative:

Althoff	Garrett	Shadid	Winkel
Cullerton	Obama	Sullivan, J.	
Forby	Ronen	Welch	

The following voted present:

Collins	Harmon	Sandoval
del Valle	Martinez	

This bill, having received the vote of constitutional majority of the members elected, was declared passed, and all amendments not adopted were tabled pursuant to Senate Rule No. 5-4(a).

Ordered that the title be as aforesaid, and that the Secretary inform the House of Representatives thereof and ask their concurrence in the Senate Amendments adopted thereto.

Senator Schoenberg asked and obtained unanimous consent for the Journal to reflect his negative vote on **House Bill No. 2200**.

[November 20, 2003]

At the hour of 11:20 o'clock p.m., the Chair announced that the Senate stand adjourned until Friday, November 21, 2003, at 9:00 o'clock a.m.